Clerk's Stamp

COURT FILE NUMBER	1901-12274
COURT	COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE	CALGARY
PLAINTIFF	ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)
DEFENDANTS	1963843 ALBERTA LTD., PENHOLD CROSSING PLAZA LTD., ASHWANI AWASTHI, SWARNJIT SINGH KOONER, SUKHBIR NAIN, OM ACAYOT ABHOY, and ANURAG SUMAN
DOCUMENT	**RECEIVER'S FIFTH REPORT – 1963843 ALBERTA LTD.** **November 29, 2021**
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	**RECEIVER** Ernst & Young Inc. 2200, 215 – 2 Street SW Calgary, Alberta T2P 1M4 Telephone: 403-206-5061 / 780-441-2447 Fax: 403-206-5075 Email: peter.chisholm@parthenon.ey.com evan.mackinnon@parthenon.ey.com **COUNSEL** Dentons Canada LLP 15th Floor, Bankers Court 850 – 2 Street SW Calgary, Alberta T2P 0R8 Telephone: 403-268-7000 Fax: 403-268-3100 Email: derek.pontin@dentons.com john.regush@dentons.com

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APPENDIX

INTRODUCTION AND PURPOSE

1. Ernst & Young Inc. (the "**Receiver**") was appointed as Receiver and Manager of the property, assets and undertakings of 1963843 Alberta Ltd. ("**196**") and Penhold Crossing Plaza Ltd. ("**Penhold Crossing**", collectively with 196 the "**Debtors**") pursuant to an Order of this Court (as amended from time to time, the "**Receivership Order**") dated November 6, 2019 (the "**Receivership Date**").

2. The purpose of this report of the Receiver (the "**Fifth Report**") is to provide this Honourable Court with the Receiver's comments with respect to:

   a) The statement of receipts and disbursements of the Receiver for 196 during the period of the Receivership Date to November 26, 2021 (the "**Reporting Period**"). This statement of receipts and disbursements addresses the reporting requirement set out in the Order of this Honourable Court dated January 14, 2021 requiring that the next reports of the Receiver will provide information to the Court showing how additional borrowings were spent, in particular the allocation of expenditures as between the Debtors;

   b) The sales processes completed by the Receiver to solicit offers from parties interested in acquiring the property of the Debtors;

   c) The agreement of purchase and sale (the "**Penhold Crossing & 196 PSA**") with 1676556 Alberta Ltd., ("**167 AB Ltd.**") to purchase the real property of Penhold Crossing and the retail fuel business of 196 (the "**Penhold Crossing & 196 Transaction**") and the Receiver's request for approval of the Penhold Crossing & 196 Transaction; and

   d) The Receiver's recommendations.

TERMS OF REFERENCE

3. Capitalized terms not defined in this Fifth Report are as defined in the Receivership Order.

4. In preparing this Fifth Report, the Receiver has relied upon unaudited financial information of the Debtors, the Debtors' books and records, certain financial information prepared by the Debtors and discussions with Debtors' Management ("**Management**"). The Receiver has not audited, reviewed or otherwise attempted to verify the accuracy or completeness of the information provided. Accordingly, the Receiver expresses no opinion or other form of assurance on the information contained in this report or relied upon in its preparation. Future oriented financial information reported or relied on in order to prepare this report is based on

Management's assumptions regarding future events; actual results will vary from forecast, and such variations may be material.

5. All references to dollars are in Canadian currency unless otherwise noted.

BACKGROUND

6. 196 is a tenant of Penhold Crossing, operating an Esso branded gas station and convenience store in Penhold, Alberta (the "**Penhold Convenience Store**"). Within the convenience store is a Tim Hortons which has a sublease with 196.

7. Penhold Crossing is also the landlord of a vacant strip mall situated on the same property as the Penhold Convenience Store and Tim Hortons, located at 2 Hawkridge Blvd. (collectively called the "**Property**").

8. The Receiver has made attempts to realize on the assets of the Debtors through a sales process (the "**Sales Process**") that is detailed further in this Fifth Report.

STATEMENT OF RECEIPTS AND DISBURSEMENTS

9. This Honourable Court's order of January 14, 2021 provided, among other things, that "The next reports of the Receiver will provide information to the Court showing how additional borrowings were spent, in particular the allocation of expenditures as between 196 and Penhold Crossing. Interested parties are at liberty to request additional information regarding this reporting from the Receiver and the Receiver shall provide this additional information regarding reporting in advance of any application."

10. Exhibit 1.0 is a statement of receipts and disbursements during the Reporting Period. This statement of receipts and disbursements addresses the reporting requirement set out in the January 14, 2021 order and sets out 196's receipts for the period, including amounts obtained from Receiver's borrowings, and the disbursements made by 196 over the period, which

indicates the expenses of 196 for the period.

1963843 Alberta Ltd. - In Receivership		Exhibit 1.0
Ernst & Young Inc., Receiver		
Statement of Receipts and Disbursements		
For the Period November 8, 2019 to November 25, 2021		
		Reporting Period
Receipts:	**Notes**	
Fuel and convenience sales	*a*	1,284,741
Receiver's certificate	*b*	300,000
Lotto sales	*c*	196,951
Rental income	*d*	140,612
Refund		5,375
ATM commisions		3,579
Total Receipts		**1,931,258**
Disbursements:		
Fuel purchases	*a*	842,383
Rental payments	*e*	239,433
Convenience store purchases	*a*	269,343
AGLC payments	*c*	181,046
Payroll	*f*	150,334
Insurance	*g*	57,429
Source deductions		43,293
Lease payments	*h*	37,771
Repairs & maintenance	*i*	27,968
Utilities		18,712
Bank & moneris charges		17,278
Phase II Environmental	*j*	9,030
Waste disposal		15,860
Receiver's certificate interest		8,063
Workers compensation board		2,833
Locksmith		1,508
Supplies & uniforms		346
Business license		240
Filing & license fee		70
Total Disbursements		**1,922,940**
Cash on Hand - November 25, 2021		**8,317**

11. Notes to the Receiver's statement of receipts and disbursements are as follows:

a) The Receiver has maintained agreements with various tobacco, food and beverage vendors, operating on a C.O.D. basis with no commitment to any term length of agreement. The fuel purchases made to Parkland are paid in advance and therefore, require the Receiver to maintain a balance in the account. Payments made at the tank are swept directly by Parkland and deemed a credit toward purchases going forward;

b) Receiver's borrowings advanced by ATB Financial to date. The Receiver is authorized to borrow up $400,000 under the Receiver's Borrowing Charge;

c) Lotto sales made with Alberta Gaming, Liquor and Cannabis ("**AGLC**") and amounts swept by AGLC for cost of lotto tickets. AGLC is holding a $7,000 letter of credit issued by ATB Financial on behalf of 196, as security for lotto tickets;

d) Rental income related to Tim Hortons sublease with 196. Tim Horton's pays a flat fee every first of the month to cover utility related costs, and then pays a fee tied to a percentage of revenue that made in the middle of the month;

e) Monthly rental payments to Penhold Crossing. As noted in the Fourth Report, the Receiver has made efforts to maintain the lease between Penhold Crossing and 196 (the "**Gas Station Lease**") through the pandemic; however, as discussed in further details below, there is balance outstanding that will be settled with the proceeds from the Penhold Crossing & 196 Transaction;

f) The Receiver has employed staff at the gas station and convenience store to operate and monitor the business and Property under the supervision of the Receiver, and provide access to third parties such as plumbers, snow removers, environmental consultants etc., to perform duties to the benefit of the estate;

g) Insurance costs are in relation to a pollution policy and insurance policy (including liability) for the assets within the convenience store and gas station;

h) Lease payments in relation to monthly lease held with Meridian OneCap for various cooler systems, slurpee, fountain pop and ice cream machines onsite;

i) Costs associated with the repair of the premium fuel tank that was damaged prior to the Receivership and various costs associated with plumbing, repairs, and maintenance onsite throughout the Receivership; and

j) As described in the supplement to the fourth report of the Receiver dated June 14, 2021, the Receiver identified that the most prospective purchasers were unable to obtain financing and submit an unconditional offer for the Property of the Debtors without an updated Phase II Environmental Report completed on the real property of the Debtors. The Receiver sought proposals from multiple environmental consultants and selected a consultant with the lowest cost to complete the Phase II Environmental Report. As the Phase II Environmental Report benefited the sale of the Property owned by both Debtors, the cost associated the Phase II Environmental Report has been borne equally by each of 196 and Penhold Crossing.

12. As described in the fourth report of the Receiver dated June 7, 2021 (the "**Fourth Report**"), the Receiver has continued to make efforts to maintain the Gas Station Lease though the COVID-19 pandemic has caused stress on the sales and cash flow of 196 for well over a year. Further, the cost of fuel has risen substantially during this period, requiring further upfront costs from 196 to satisfy fuel orders and attract customers onsite. These difficulties have resulted in circumstances where post-receivership lease payments of both certain months of Base Rent and Additional Rent have needed to be delayed. These circumstances have continued subsequent to the date of the Fourth Report and this Fifth Report.

13. Penhold Crossing has no other agreements in place with tenants, suppliers, or customers outside of 196. Meanwhile, 196 holds supply agreements with Parkland Fuel Corporation ("**Parkland**") and the Esso brand, as well the TDL Group Ltd. ("**TDL**") through it's sublease of the Tim Hortons onsite ("**196 Agreements**").

14. The Receiver has been of the opinion since the inception of the Receivership that there is substantial benefit to the stakeholders of both Penhold Crossing and 196 for the 196 Agreements to remain in place.

15. As per the terms of the Receivership Order, the Receiver has ensured the continued operations of both the convenience store and Tim Hortons through continued partnership with Parkland and TDL.

16. The Selling Agent has advised the Receiver that should the Tim Hortons and Esso gas station operations of 196 be suspended the value of the Property and business of Penhold Crossing and 196 would decrease materially.

17. Taking into account the cashflow position of 196, as well as the benefit to the estates of both Debtors in maintaining the 196 Agreements, the Receiver has deferred settling a portion of the Base Rent and Additional Rent owed by 196 to Penhold Crossing. The Receiver has satisfied

sufficient Base Rent to ensure that Penhold Crossing can satisfy certain near-term obligations, including insurance, utilities, and property taxes.

18. The Receiver observes that in its experience, in the present market circumstances, particularly as impacted by the effects of COVID-19, relief such as deferral of rental payments is reflective of activity in the market overall. The Receiver anticipates settling outstanding amounts due from 196 to Penhold for Base Rent and Additional Rent with the proceeds from the Penhold Crossing & 196 Transaction.

19. The Receiver adopted this strategy after having considered that in order to satisfy all rent amounts owing under the Inter Company Lease, the Receiver, on behalf of the estate of 196, would have to borrow an additional approximately $250,000 from ATB Financial ("**ATB**") that would not be required to satisfy operating costs or property taxes and would be held in 196's bank account pending the closing of a sale pursuant to the Sales Process.

20. With the above rent relief, the Receiver forecasts that 196 will still require an additional $25,000 of Receiver's Borrowings to fund operations of 196 and settle sufficient rent due under the Gas Station Lease to maintain the Property of Penhold Crossing before closing of the Penhold Crossing and 196 Transaction. ATB has confirmed that it will advance these additional Receiver's Borrowings.

SALES PROCESS

21. The Receiver, with the assistance of Liang Commercial Century 21 Bravo Realty (the "**Sales Agent**"), marketed the Property of Penhold Crossing and 196. The Sales Process was developed by the Receiver in consultation with the Sales Agent and ATB and was approved pursuant to an Order of this Court dated November 10, 2020.

22. In accordance with the Sales Process, the Receiver and Selling Agent undertook the following steps:

a) The Selling Agent posted a teaser of the property on the realtor firm's official site, Century 21 Bravo Realty (www.thegatewayteam.ca), and on Realtor.ca (MLS No. A1048917) providing details on the Property and stating the submission deadline of January 29, 2021 as per the Third Report;

b) The Receiver published advertisements in the Edmonton Journal and Calgary Herald, providing the Selling Agent's contact information in these advertisements;

c) The Receiver's counsel drafted a Non-Disclosure Agreement ("**NDA**") for prospective bidders to execute. The NDA was provided to the Selling Agent to send to any prospective bidders;

d) Those that did execute the NDA were given access to an electronic data room maintained by the Selling Agent that included any and all available and confidential due diligence material;

e) The Selling Agent and the convenience store manager, a contractor under the Receivership of 196, made themselves available to provide walkthroughs of the site to any and all interested parties; and

f) A templated Asset Purchase Agreement ("**APA**") was drafted by the Receiver's counsel for the Selling Agent to provide to prospective bidders as well.

23. On January 29, 2021, the Receiver was in receipt of fourteen (14) offers that were presented to ATB for review and comment.

24. On February 5, 2021, the Receiver, in consultation with the Selling Agent and ATB, extended the deadline for Qualified Bidders to submit offers to February 12, 2021 (the "**Revised Bid Deadline**")

25. The Receiver attempted to pursue definitive sale documentation with the party who submitted the highest bid immediately following the expiry of the Revised Bid Deadline (which the Receiver would refer to as the "successful bidder"), but unfortunately these negotiations did not result in a definitive agreement to purchase the property.

26. After negotiations with the first party identified as a successful bidder proved unsuccessful, the Receiver engaged with the party that had submitted the next highest bid in the Sales Process. Unfortunately, these negotiations also failed to result in execution of a definitive sale agreement.

27. While attempting to negotiate a definitive sale agreement with the first party identified as the successful bidder, the Receiver was provided with an unsolicited offer to purchase the Debtors' assets (the "**Unsolicited Offer**").

28. The Receiver advised the offeror of the Unsolicited Offer that it was in the process of negotiating definitive sales documentation with a party who submitted a bid in the Sales Process and would

not be in a position to enter into negotiations regarding the Unsolicited Offer.

29. Subsequent to negotiations with the second party identified as the successful bidder failing to result in definitive sales documentation, and several other parties who submitted bids in the Sales Process advising the Receiver that they were withdrawing their bids from consideration, the Unsolicited Offer became the highest offer available for the Receiver's consideration.

30. The Receiver attempted to negotiate definitive sale documentation regarding the Unsolicited Offer. However, on June 10, 2021, the Receiver was notified by the real estate broker acting for the party that submitted to the Unsolicited Offer that the Unsolicited Offeror was no longer willing to enter into a definitive purchase and sales agreement based upon the terms of the Unsolicited Offer.

Renewed Sales Process

31. As approximately four months had elapsed since the Revised Bid Deadline of February 12, 2021, the Receiver was of the view that the Qualified Bids received in the Sales Process were now stale dated.

32. As such, the Receiver sought and obtained the approval of this Honourable Court to remarket and solicit bids for the property of the Debtors, with the assistance of the Selling Agent, under the shortened timeline as described below (the "**Renewed Sales Process**").

33. The Receiver identified through the Sales Process that bidders generally required an updated Phase II environmental site assessment in order to submit a definitive offer to purchase the Property of the Debtors, subject only to Court approval. The Receiver therefore engaged an environmental consultant to update the Phase II environmental site assessment completed on the Property dated June 21, 2016 (the "**Updated Phase II Report**"). The Updated Phase II Report was completed on October 10, 2021.

34. The Receiver undertook the following steps to market the property of the debtors in the Renewed Sales Process:

a) The Receiver prepared an updated marketing teaser describing the opportunity to acquire the Property under the Renewed Sales Process and distributed the teaser to those parties that were deemed Qualified Bidders in the Initial Sales Process as well as parties identified by the Receiver and Sales Agent as being interested in acquiring the Property;

b) The Selling Agent posted the updated teaser on the realtor firm's official site, Century 21 Bravo Realty (www.thegatewayteam.ca), and on Realtor.ca (MLS No. A1048917) providing details on the Property;

c) The Receiver listed the Property of the Debtors on LoopNet and CoStar, the world's largest online platforms for advertising commercial real estate properties; and

d) The Receiver uploaded the Updated Phase II Report to the electronic data room maintained by the Selling Agent and sent a notice to all parties that had executed an NDA advising that the Updated Phase II Report was available on the Selling Agent's data room.

35. The bid deadline for Qualified Bidders to submit binding offers (the "**Offers**") to purchase the Property of the Debtors was 12:00 P.M. (Mountain Time) on November 1, 2021 (the "**Bid Deadline**"). The Receiver selected the Bid Deadline on the basis that Qualified Bidders would have sufficient time to complete additional due diligence including review of the Updated Phase II Report completed on October 10, 2021.

36. As at the Bid Deadline, Qualified Bidders submitted thirteen (13) Offers to purchase the Property of the Debtor being sold pursuant to the Renewed Sales Process. Six of these Offers were subject to conditions such as a financing and/or further due diligence and were not deemed to be Qualified Bids in the Renewed Sales Process.

37. On November 8, 2021, 167 AB Ltd., a bidder that had submitted an Offer prior to the Bid Deadline which the Receiver did not consider a Qualified Bid as it contained due diligence conditions, contacted the Receiver on an unsolicited basis to present a revised offer including an increased purchase price and the removal of the due diligence conditions. The Receiver considered the revised Offer from 167 AB Ltd. to be a Qualified Bid in the Renewed Sales Process.

Penhold Crossing & 196 Transaction

38. The Receiver, with the assistance of the Sales Agent and in consultation with ATB, reviewed the Qualified Bids received in the Sales Process and concluded that the Qualified Bid submitted by 167 AB Ltd. represented the highest recovery to the stakeholders of the Debtors.

39. The Receiver and 167 AB Ltd. negotiated the terms of the Penhold Crossing & 196 PSA. On

November 14, 2021, the Receiver (as Vendor) and 167 AB Ltd. (as Purchaser) entered into the Penhold Crossing & 196 PSA, subject to the approval of this Honourable Court.

40. Key terms of the Penhold Crossing & 196 PSA are as follows:

a) Deposit: In accordance with the Sales Process, the Receiver is holding a deposit equivalent to 5% of the purchase price (the "**Deposit**");

b) Court Approval: The Penhold Crossing & 196 Transaction is subject to the approval of this Honourable Court;

c) Closing: The Penhold Crossing & 196 Transaction is to close on the earlier of 65 days after the date of Court Approval or such earlier date as the Receiver and 167 AB Ltd. may agree acting reasonably (the "**Closing Date**"). However, such Closing Date shall not be later than February 15, 2021;

d) Assumed Contracts: 167 AB Ltd. shall assume the following contracts;

   i. The Gas Station Lease dated February 8, 2017, between Penhold Crossing and 196 (the "**Intercompany Lease**");

   ii. The indenture of lease dated December 5, 2017 between 196 and TDL (the "**Tim Horton's Sublease**"), the Tim Hortons sublease with 196; and

   iii. 196's lease of various cooler systems, slurpee, fountain pop and ice cream machines onsite;

e) Termination of the Fuel Supply Agreement: The Penhold Crossing & 196 Transaction is conditional upon the Receiver terminating the Motor Fuel Supply Agreement (as defined in the Penhold Crossing & 196 PSA) between Parkland Industries Ltd. and 196 and other shareholders of 196. In accordance with the Penhold Crossing & 196 PSA, the Motor Fuel Supply Agreement shall be terminated upon filing of the Receiver's Closing Certificate (as defined in the proposed Sale Approval and Vesting Order) on the Closing Date.

41. The Receiver considers the closing risk associated with the Penhold Crossing & 196 Transaction to be minimal, as the Receiver is holding the Deposit and considers the risk of the conditions under the Penhold Crossing & 196 PSA not being satisfied as minimal.

42. In the Receiver's view, the details of the Qualified Bids received, and the purchase price set out

in the Penhold Crossing & 196 PSA are commercially sensitive information, which could negatively impact the monetization of the Property if made public. The Receiver believes this information should remain confidential until closing of the Penhold Crossing & 196 Transaction in order to preserve the integrity of the Sales Process, in the event the Penhold Crossing & 196 Transaction does not close.

43. A copy of the Penhold Crossing & 196 PSA, with the purchase price and deposit amount redacted, is attached to this Fifth Report as Appendix '**A**'.

44. The Receiver will issue a Confidential Supplement to this Fifth Report (the "**Confidential Supplement**"), which will contain an unredacted version of the Penhold Crossing & 196 PSA for this Honourable Court and a summary of the key terms associated with the other Qualified Bids submitted in the Renewed Sales Process and the Receiver will seek to have the Confidential Supplement temporarily sealed.

RECEIVER'S COMMENTS ON THE PENHOLD CROSSING & 196 TRANSACTION

45. The Receiver believes the approval of the Penhold Crossing & 196 Transaction is in the best interest of all stakeholders for the following reasons:

a) It arose from the Sales Process, which was first approved by this Honourable Court pursuant to an Order of this Court dated November 10, 2020 and implemented by the Receiver, with the assistance of Sales Agent and in consultation with ATB. The Receiver believes the Sales Process, and Renewed Sales Process, were carried out in good faith and with due diligence in meeting the key milestones of the Sales Process and Renewed Sales Process, including the soliciting of bids which ultimately resulted in the Penhold Crossing & 196 PSA;

b) There was a broad marketing of the Property to a large number of potential purchasers over a reasonable timeframe;

c) The Penhold Crossing & 196 PSA was negotiated between the parties at arm's length, in good faith, and is commercially reasonable in the circumstances;

d) The Penhold Crossing & 196 PSA represents the highest and best offer for the Property of the Debtors;

e) The Receiver believes the consideration in the Penhold Crossing & 196 PSA is commercially reasonable, in the best interest of the creditors of 196 and Penhold and other stakeholders and will maximize available recovery to creditors, in the circumstances; and

f) The Penhold Crossing & 196 Transaction is supported by ATB, the first-ranking secured creditor of Penhold & 196

46. Should this Honourable Court grant an Order approving the Penhold Crossing & 196 Transaction, the Receiver anticipates making an application subsequent to the Closing Date seeking an Order approving an allocation of the purchase price under the Penhold Crossing & 196 Transaction as amongst the Debtors, a distribution to ATB and such other affairs required to conclude this receivership.

RECOMMENDATIONS

47. The Receiver respectfully recommends that this Honourable Court approve:

a) The sale and vesting of the Property to 167 AB Ltd. pursuant to the Penhold Crossing & 196 PSA; and

b) An Order sealing the Confidential Supplement on the Court file.

Respectfully submitted this 29th day of November 2021.

Ernst & Young Inc.
In its capacity as Receiver of
1963843 Alberta Ltd.
and not in its personal or corporate capacity

Per:

Peter Chisholm, CPA, CA, CIRP, Licensed Insolvency Trustee
Senior Vice-President

APPENDIX - A

1963843 ALBERTA LTD. & PENHOLD CROSSING PLAZA LTD.,
by and through their Court-appointed receiver and manager,
Ernst & Young Inc., not acting in its personal or corporate capacity

and

1676556 ALBERTA LTD.

AGREEMENT OF PURCHASE AND SALE

November 14, 2021

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SCHEDULES

AGREEMENT OF PURCHASE AND SALE

THIS AGREEMENT OF PURCHASE AND SALE is dated as of November 14, 2021,

BETWEEN:

1963843 ALBERTA LTD. & PENHOLD CROSSING PLAZA LTD., by and through their Court-appointed receiver and manager, Ernst & Young Inc., not acting in its personal or corporate capacity (the "**Vendor**")

- and -

1676556 ALBERTA LTD. (the "**Purchaser**")

WHEREAS:

A. Pursuant to an order of the Honourable Justice K.M. Horner of the Court of Queen's Bench of Alberta granted on November 8, 2020 (the "**Receivership Order**"), Ernst & Young Inc. was appointed receiver and receiver and manager, without security, of all of the current and future assets, undertakings and properties of every nature and kind whatsoever, and wherever situated including all proceeds thereof (the "**Receivership Assets**"), of 1963843 Alberta Ltd. ("**196 Alberta**") & Penhold Crossing Plaza Ltd. ("**Penhold Crossing**", and Penhold Crossing together with 196 Alberta, the "**Corporations**");

B. The Vendor has conducted a sales process (the "**Sales Process**") with the approval of the Court pursuant to an Order of the Court granted November 10, 2020 (the "**Sales Process Order**"), intended to solicit interest in a sale of all or a portion of the Receivership Assets; and

C. The Vendor wishes to sell to the Purchaser, and the Purchaser wishes to purchase from the Vendor, all of the Corporations' right, title, and interest in and to 2 Hawkridge Blvd, Penhold, Alberta, and as legally described at Schedule 1.1(ff) attached hereto, including all personal property related to it (the "**Property**"), subject to the terms and conditions set forth herein and subject to Court Approval (as defined below).

NOW THEREFORE, this Agreement witnesses that in consideration of the mutual covenants and agreements contained herein, and for other good and valuable consideration, the receipt and adequacy of which are acknowledged by each Party to the other, the Parties covenant and agree as follows:

ARTICLE 1
INTERPRETATION

1.1 Definitions

In this Agreement:

(a) "**Affiliate**" means, with respect to any specified Person, any other Person directly or indirectly controlling or controlled by or under direct or indirect common control with that specified Person. For the purposes of this definition, "control" (including with correlative meanings, controlling, controlled by and under common control with) means the power to direct or cause the direction of the management and policies of that Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise and, it being understood and agreed that with respect to a corporation or partnership, control shall mean direct or indirect ownership of more than 50% of the voting shares in any such corporation or of the general partnership interest or voting interest in any such partnership;

(b) **"Agreement"** means this agreement of purchase and sale and any schedules attached hereto which are referred to in this agreement, together with any amendment or supplement thereto;

(c) **"Applicable Law"** means, in respect of any Person, asset, transaction, event or circumstance: (i) statutes (including regulations enacted thereunder); (ii) judgments, decrees and orders of courts of competent jurisdiction (including the common law); (iii) regulations, orders, ordinances and directives issued by Governmental Authorities; and (iv) the terms and conditions of all permits, licenses, approvals and authorizations, in each case which are applicable to such Person, asset, transaction, event or circumstance;

(d) **"Approval and Vesting Order"** means an order of the Court approving the Transaction in accordance with the provisions of this Agreement, and vesting all of the Vendor's Interest in and to the Property in the Purchaser, such order to be substantially in the form attached hereto as Schedule 1.1(d) together with such modifications and amendments to such form as may be approved by the Vendor and the Purchaser, acting reasonably;

(e) **"Assignment and Assumption Agreement"** means an assignment and assumption agreement evidencing the assignment to the Purchaser of the Vendor's Interest in, to and under the Assumed Contracts and the assumption by the Purchaser of all of the Assumed Liabilities under or in respect of the Assumed Contracts, substantially in the form attached hereto as Schedule 1.1(e);

(f) **"Assumed Contracts"** means those contracts, agreements, easements, restrictions, leases and permits related to the Property which are described in Schedule 1.1(f);

(g) **"Assumed Environmental Liabilities"** means all Environmental Liabilities arising or accruing before, on or after the Closing Date and related to or in connection with the Property;

(h) **"Assumed Liabilities"** means, collectively, all liabilities and obligations arising from the possession, ownership and/or use of the Property including all Assumed Environmental Liabilities and Assumed Obligations;

(i) **"Assumed Obligations"** has the meaning ascribed to that term in Section 2.4;

(j) **"Business Day"** means any day other than a Saturday, Sunday or a statutory holiday in the Province of Alberta;

(k) **"Claim"** means any right, claim, cause of action or complaint of any Person that may be asserted or made in whole or in part against the Vendor, its Affiliates and their respective Representatives, whether or not asserted or made, in connection with any indebtedness, liability or obligation of any kind whatsoever, and any interest accrued thereon or costs payable in respect thereof, including without limitation, by reason of the commission of a tort (intentional or unintentional), by reason of any breach of contract or other agreement (oral or written), by reason of any breach of duty (including, without limitation, any legal, statutory, equitable or fiduciary duty) or by reason of any right of ownership of or title to property or assets or right to a trust or deemed trust (statutory, express, implied, resulting, constructive or otherwise), and whether or not any indebtedness, liability or obligation is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, unsecured, present or future, known or unknown, by guarantee, surety or otherwise, and whether or not any right, claim, cause of action or complaint is executory or anticipatory in nature;

(l) **"Closing"** means the completion of the purchase by the Purchaser, and sale by the Vendor, of the Vendor's Interest in and to the Property and the completion of all other transactions contemplated by this Agreement that are to occur contemporaneously with such purchase and sale, all subject to and in accordance with the terms and conditions of this Agreement;

(m) **"Closing Cash Payment"** has the meaning ascribed to that term in Section 3.3(b);

(n) **"Closing Date"** means the date on which Closing occurs, being the earlier of 65 days after the date of Court Approval, or such earlier date as the Parties may agree acting reasonably; *provided, however*, that the Closing Date shall not be later than the Outside Date;

(o) **"Confidentiality Agreement"** means the confidentiality agreement among the Vendor and the Purchaser returned by the Purchaser to the Vendor on April 23, 2021;

(p) **"Consequential Damages"** has the meaning ascribed to that term in Section 15.5;

(q) **"Corporations"** has the meaning ascribed to that term in the Recitals, above;

(r) **"Court"** means the Court of Queen's Bench of Alberta, Judicial Centre of Calgary;

(s) **"Court Approval"** means the issuance of the Approval and Vesting Order by the Court approving the sale of the Property;

(t) **"Court Orders"** means, collectively, the Receivership Order, the Sales Process Order, and the Approval and Vesting Order;

(u) **"Cure Costs"** means, in respect of any Assumed Contract, all amounts, costs and expenses required to be paid to remedy all of the Vendor's monetary defaults in relation to the Assumed Contracts or otherwise required to secure a counterparty's or any other necessary Person's consent to the assignment of an Assumed Contract or as may be required pursuant to the Approval and Vesting Order, and includes any other fees and expenses required to be paid to a counterparty or any other Person in connection with the assignment of an Assumed Contract;

(v) **"Data Room Information"** means all information made available (by the Vendor or otherwise) for the Purchaser's review in electronic form in relation to the Corporations, their Affiliates and/or the Property;

(w) **"Deposit"** has the meaning ascribed to that term in Section 3.2(a);

(x) **"Encumbrances"** means any pledges, liens, encumbrances, claims, charges, options or other security interests of any kind or other agreement or arrangement having the effect of conferring security;

(y) **"Environmental Laws"** means all statutes, regulations, ordinances, by-laws, and codes, now or hereafter in existence in Canada (whether federal, provincial or municipal) relating to the protection and preservation of the environment, occupational health and safety, transportation of dangerous goods or hazardous substances, including, without limitation, the *Environmental Protection and Enhancement Act* (Alberta), as amended, replaced, or restated from time to time;

(z) **"Environmental Liabilities"** means all claims, Losses and Liabilities, damages or expenses (whether accrued, actual, contingent, latent or otherwise), whenever arising, which relate to the Property, or arise from or in connection with past, present or future operations in respect thereof or which relate to or are associated with the environment, including, without limitation, Losses and Liabilities related to or arising from:

(i) the non-compliance with, the breach of or any liability under the applicable Environmental Laws;

(ii) presence, transportation, storage, use or disposal of toxic or hazardous substances;

(iii) release, spill, escape, emission, leak, discharge, migration or dispersal of toxic or hazardous substances;

(iv) removal, assessment, monitoring, sampling, response, abatement, clean-up, investigation, reporting of pollution or contamination of, or damage or other adverse effects to the environment; and

(v) Remediation and Reclamation Obligations,

including, without limitation, liabilities to compensate Third Parties for damages and Losses and Liabilities resulting from the items described in (i) through (v) above and, for purposes of this Agreement, "the environment" includes, without limitation, the air, the surface and subsurface of the earth, bodies of water (including, without limitation, rivers, streams, lakes, aquifers, groundwater) and plant and animal life (including humans);

(aa) **"Excluded Contract"** means all contracts of the Corporations relating to the Property which are not Assumed Contracts and all Unassignable Contracts for which the required consent to assignment has not been obtained pursuant to Section 2.3(a);

(bb) **"Final Order"** means an order of the court that has not been vacated, stayed, set aside, amended, reversed, annulled or modified, as to which no appeal or application for leave to appeal therefrom has been filed and the applicable appeal period with respect thereto shall have expired without the filing of any appeal or application for leave to appeal, or if any appeal(s) or application(s) for leave to appeal therefrom have been filed, any (and all) such appeal(s) or application(s) have been dismissed, quashed, determined, withdrawn or disposed of with no further right of appeal and all opportunities for rehearing, reargument, petition for certiorari and appeal being exhausted or having expired without any appeal, motion or petition having been filed and remaining pending, any requests for rehearing have been denied, and no order having been entered and remaining pending staying, enjoining, setting aside, annulling, reversing, remanding, or superseding the same, and all conditions to effectiveness prescribed therein or otherwise by Applicable Law or order having been satisfied;

(cc) **"Governmental Authority"** means any domestic or foreign government, whether federal, provincial, state, territorial or municipal; and any governmental agency, ministry, department, tribunal, commission, bureau, board, court (including the Court) or other instrumentality exercising or purporting to exercise legislative, judicial, regulatory or administrative functions of, or pertaining to, government, having jurisdiction over a Party, the Property or this Transaction;

(dd) **"GST"** means taxes, interest, penalties and other additions thereto imposed under Part IX of the *Excise Tax Act* (Canada) and the regulations made thereunder;

(ee) **"GST Legislation"** means such act and regulations collectively;

(ff) **"Lands"** means those lands described in Schedule 1.1(ff) attached hereto;

(gg) **"Lease(s)"** has the meaning ascribed to that term in Section 11.2;

(hh) **"Legal Proceeding"** means any litigation, action, suit, investigation, hearing, claim, complaint, grievance, arbitration proceeding or other proceeding and includes any appeal or review or retrial of any of the foregoing and any application for same;

(ii) **"Losses and Liabilities"** means any and all assessments, charges, costs, damages, debts, expenses, fines, liabilities, losses, obligations and penalties, whether accrued or fixed, absolute or contingent, matured or unmatured or determined or determinable, including those arising under any Applicable Law, Claim by any Governmental Authority or any order, writ, judgment, injunction, decree, stipulation, determination or award entered by or with any Governmental Authority, and those arising under any contract, agreement, arrangement, commitment or undertaking and costs and expenses of any Legal Proceeding, assessment, judgment, settlement or compromise relating thereto, and all interest, fines and penalties and reasonable legal fees and expenses incurred in connection therewith (on a full indemnity basis);

(jj) **"Motor Fuel Supply Agreement"** means the Motor Fuel Supply Agreement – Esso-Branded Motor Fuels dated December 28, 2016 among Parkland Industries Ltd. and 1963843 Alberta Ltd. and Ashwani Awasthi and Swanrjit Singh Kooner, as amended by the Amending Agreement – Esso-Branded Motor Fuel Supply Agreement dated February 2017 among Parkland Fuel Corporation and 1963843 Alberta Ltd. and Ashwani Awasthi, Swarnjit Singh Kooner and Prabhdeep Awasthi;

(kk) **"Notice Period"** has the meaning ascribed to that term in Section 9.2(b);

(ll) **"Outside Date"** means February 15th, 2022 or such other date as the Parties may mutually agree;

(mm) **"Parties"** means, collectively, the Purchaser and the Vendor, and **"Party"** means any one of them;

(nn) **"Permitted Encumbrances"** means the Encumbrances set forth in Schedule 1.1(nn) attached hereto;

(oo) **"Person"** means any individual, corporation, limited or unlimited liability company, joint venture, partnership (limited or general), trust, trustee, executory, Governmental Authority, or other entity however designated or instituted;

(pp) **"Property"** has the meaning ascribed to that term in the recitals hereto;

(qq) **"Purchase Price"** has the meaning ascribed to that term in Section 3.1;

(rr) **"Purchaser"** has the meaning ascribed to that term in the preamble hereto;

(ss) **"Purchaser's Solicitors"** means Schnell Hardy Jones LLP, or such other firm or firms of solicitors as are retained or engaged by the Purchaser from time to time and notice of which is provided to the Vendor;

(tt) **"Receivership Assets"** has the meaning ascribed to that term in the recitals hereto;

(uu) **"Receivership Order"** has the meaning ascribed to that term in the recitals hereto;

(vv) **"Receivership Proceedings"** means the proceedings commenced pursuant to the Receivership Order;

(ww) **"Remediation and Reclamation Obligations"** means all obligations to dismantle, decommission, abandon, remediate, restore and reclaim the surface or subsurface of lands associated with the Property, all as may be required in accordance with all applicable Environmental Laws;

(xx) **"Representative"** means, in respect of a Person, each director, officer, employee, agent, legal counsel, accountant, consultant, contractor, professional advisor and other representative of such Person and its Affiliates;

(yy) **"Sales Process"** has the meaning ascribed to that term in the recitals hereto;

(zz) **"Sales Process Order"** has the meaning ascribed to that term in the recitals hereto;

(aaa) **"Statement of Adjustments"** has the meaning ascribed to that term in Section 4.1;

(bbb) **"Tax"** means all taxes, assessments, charges, dues, duties, rates, fees, imposts, levies and similar charges of any kind lawfully levied, assessed or imposed by any Governmental Authority under any applicable federal, provincial, territorial, municipal and local, foreign, or other statutes, ordinances or regulations imposing a tax, including income, capital, capital gains, goods and services, sales, use, consumption, excise, value added (including GST and any Harmonized Sales Tax), business, real property, personal property, transfer, franchise, withholding, payroll, or employer health taxes, Canada Pension Plan contributions, employment insurance premiums, and provincial workers' compensation payments, levy, assessment, whether computed on a separate, combined, unitary, or consolidated basis or any other manner, including any interest, penalties and fines associated therewith;

(ccc) **"Third Party"** means any Person who is not a Party;

(ddd) **"Third Party Claim"** means any Claim by a Third Party asserted against the Corporations for which the Purchaser has indemnified the Vendor or is otherwise responsible pursuant to this Agreement;

(eee) **"Transaction"** means the transaction for the purchase and sale of the Property as contemplated in this Agreement;

(fff) **"Transfer Taxes"** means all present and future transfer taxes, sales taxes, use taxes, production taxes, value-added taxes, goods and services taxes, land transfer taxes, registration and recording fees, and any other similar or like taxes and charges imposed by a Governmental Authority in connection with the sale, transfer or registration of the transfer of the Property, including GST;

(ggg) **"Unassignable Contracts"** has the meaning ascribed to that term in Section 2.3(a);

(hhh) **"Vendor"** has the meaning ascribed to that term in the preamble hereto;

(iii) **"Vendor's Interest"** means, when used in relation to any asset, undertaking or property, all the right, title and interest, if any, of the Corporations in such asset, undertaking or property but shall not include the Excluded Contracts; and

(jjj) **"Vendor's Solicitors"** means Dentons Canada LLP or such other firm or firms of solicitors as are retained or engaged by the Vendor from time to time and notice of which is provided to the Purchaser.

1.2 Interpretation

The following rules of construction shall apply to this Agreement unless the context otherwise requires:

(a) All references to monetary amounts, unless indicated to the contrary, are to the lawful currency of Canada.

(b) Words importing the singular include the plural and vice versa, and words importing gender include the masculine, feminine and neuter genders.

(c) The word "include" and "including" and derivatives thereof shall be read as if followed by the phrase "without limitation".

(d) The words "hereto", "herein", "hereof", "hereby", "hereunder" and similar expressions refer to this Agreement and not to any particular provision of this Agreement.

(e) The headings contained in this Agreement are for convenience of reference only and shall not affect the meaning or interpretation hereof.

(f) Reference to any Article, Section or Schedule means an Article, Section or Schedule of this Agreement unless otherwise specified.

(g) If any provision of a Schedule hereto conflicts with or is at variance with any provision in the body of this Agreement, the provisions in the body of this Agreement shall prevail to the extent of the conflict.

(h) All documents executed and delivered pursuant to the provisions of this Agreement are subordinate to the provisions hereof and the provisions hereof shall govern and prevail in the event of a conflict.

(i) This Agreement has been negotiated by each Party with the benefit of legal representation, and any rule of construction to the effect that any ambiguities are to be resolved against the drafting Party does not apply to the construction or interpretation of this Agreement.

(j) Reference to an agreement, instrument or other document means such agreement, instrument or other document as amended, supplemented and modified from time to time to the extent permitted by the provisions thereof.

(k) References to an Applicable Law means such Applicable Law as amended from time to time and includes any successor Applicable Law thereto any regulations promulgated thereunder.

1.3 Schedules

The following are the Schedules attached to and incorporated in this Agreement by reference and deemed to be a part hereof:

Schedule 1.1(d)	Form of Approval and Vesting Order
Schedule 1.1(e)	Form of Assignment and Assumption Agreement
Schedule 1.1(f)	Assumed Contracts
Schedule 1.1(ff)	Lands
Schedule 1.1(nn)	Permitted Encumbrances

1.4 Interpretation if Closing Does Not Occur

If Closing does not occur, each provision of this Agreement that presumes that the Purchaser has acquired the Property shall be construed as having been contingent upon Closing having occurred.

ARTICLE 2
PURCHASE AND SALE

2.1 Agreement of Purchase and Sale

Subject to the terms and conditions of this Agreement, and in consideration of the Purchase Price and the assumption of the Assumed Liabilities, the Vendor hereby agrees to sell, assign and transfer to the Purchaser, and the Purchaser agrees to purchase, accept and receive from the Vendor, all of the Vendor's Interest in and to the Property, in each case free and clear of all Encumbrances (other than Permitted Encumbrances).

2.2 Transfer of Property and Assumption of Liabilities

Provided that Closing occurs and subject to the terms and conditions of this Agreement, possession, risk, and Vendor's Interest in the Property shall transfer to the Purchaser on the Closing Date, and the

Purchaser agrees to assume, discharge, perform and fulfil all obligations and liabilities, known or unknown, of the Corporations with respect to the Property (including the Assumed Liabilities), from and after the Closing Date.

2.3 Assignment of Assumed Contracts and Third Party Consents

(a) In the event that there are any Assumed Contracts which are not assignable by the Vendor to the Purchaser in whole or in part without the consent, approval or waiver of any party or parties to them, if any such consents, approvals or waivers therefor have not yet been obtained as of the Closing Date (any such Assumed Contracts, collectively, the "**Unassignable Contracts**"), then:

(i) each of the Parties shall use reasonable commercial efforts to obtain, as may be required by the terms of such Assumed Contracts, consents or approvals to the assignment of such Assumed Contracts; provided that to the extent that any Cure Costs are payable with respect to any Assumed Contract, the Purchaser shall be solely responsible for and shall pay all such Cure Costs, which shall be paid either directly to the applicable counterparty or to the Vendor (or to the Vendor's Solicitors) at or prior to Closing, which Cure Costs shall be in addition to the Purchase Price for the Property;

(ii) pending the effective transfer or assignment of the relevant Unassignable Contracts, the Vendor shall hold the rights, entitlements, benefits, remedies, duties and obligations under such Unassignable Contracts in trust for the exclusive benefit of the Purchaser as bare trustee and agent;

(iii) the Vendor will, at the request and expense of the Purchaser, in the name of the Vendor or otherwise as the Purchaser shall reasonably specify, take all such reasonable actions and do all such reasonable things as shall, in the sole opinion of the Vendor, be necessary or desirable in order that the rights, entitlements, benefits, remedies, duties and obligations of the Vendor under any such Unassignable Contract may be enjoyed, received or performed, as the case may be, in accordance with the terms of such Unassignable Contract, including that all monies receivable under such Unassignable Contract may be received by the Purchaser and that all rights and licenses under such Unassignable Contracts may be exercised by the Purchaser;

(iv) the Vendor shall, no later than 60 days after receipt of funds and determination of all application costs or expenses, pay over to the Purchaser all such monies collected by the Vendor in respect of such Unassignable Contracts following the Closing Date, net of any unpaid related costs or expenses (including any Taxes that are payable in respect of the receipt of such amounts);

(v) to the extent permitted by the applicable Unassignable Contract:

(A) the Purchaser will pay, perform and discharge the duties and obligations under such Unassignable Contract, on behalf of the Vendor, until such time as the effective transfer or assignment of the relevant Unassignable Contracts to the Purchaser; and

(B) the Vendor will use commercially reasonable efforts to exercise the rights, entitlements, benefits and remedies under such Unassignable Contracts, on behalf of the Purchaser until such time as the effective transfer or assignment of the relevant Unassignable Contracts to the Purchaser, or such Unassignable Contracts expire or otherwise terminate;

(vi) the Vendor shall have no liability as a consequence of the Vendor taking any action or causing anything to be done under this Section 2.3, and the Purchaser shall be responsible and liable for, and, as a separate covenant, shall hereby indemnify and save harmless the Vendor, its Affiliates and their respective Representatives against, all costs and expenses reasonably incurred by the Vendor, its Affiliates or their respective Representatives as a consequence of or in connection with this Section 2.3; and

(vii) the Vendor shall maintain its existence, and shall continue to be licensed, registered or otherwise qualified and authorized to conduct its affairs and carry on business as is necessary to fulfill its obligations as set out in this Section 2.3 until the earlier of the expiry or assignment of the last Unassignable Contract; *provided, however*, that the Vendor's obligations under this Section 2.3 shall expire and terminate and cease to be in effect on the date that is 10 Business Days following Closing, at which time all Unassignable Contracts for which required consent is required for the assignment of such Unassignable Contract which has not been obtained by such date shall be deemed to be an Excluded Contract under this Agreement, without any adjustment of any kind whatsoever to the Purchase Price.

(b) Nothing in this Agreement shall constitute an agreement to assign, and shall not be construed as an assignment of, or an attempt to assign to the Purchaser, any Unassignable Contract until such time as the necessary consents or approvals with respect to the assignment are obtained.

(c) It shall be the sole obligation of the Purchaser, at the Purchaser's sole cost and expense, to provide any and all Cure Costs, financial assurances, deposits or security that may be required by Governmental Authorities or any Third Parties to permit the transfer of the Property, including the Assumed Contracts, to the Purchaser, without limitation including any costs of franchise termination, de-branding or re-branding in connection with the Property.

(d) Notwithstanding the generality of Section 2.3(c), the Purchaser shall, prior to Closing, post or satisfy all necessary security, deposits, letters of credit, guarantees or other financial assurances necessary to take possession of the Property and to satisfy the security required by the Assumed Contracts.

2.4 Assumed Liabilities and Assumed Obligations

Following Closing, the Purchaser shall assume, perform, discharge and pay when due all of the Assumed Liabilities, including the obligations and liabilities of the Vendor related to the development of the Property arising pursuant to the Assumed Contracts (collectively, the "**Assumed Obligations**"). For certainty, the Motor Fuel Supply Agreement is not an Assumed Contract and no Cure Costs, obligations or liabilities of the Vendor under the Motor Fuel Supply Agreement will be assigned to or assumed by the Purchaser, and the Purchaser is not liable or responsible to pay any sums of money over and above the Purchase Price for any Cure Costs, obligations and liabilities of the Vendor under the Motor Fuel Supply

Agreement, provided however, the Purchaser acknowledges and agrees that all other Assumed Obligations and Assumed Liabilities are inextricably linked to the Property and are the responsibility of the Purchaser.

ARTICLE 3
PURCHASE PRICE

3.1 Purchase Price

The consideration payable by the Purchaser for the Property shall be the sum o[redacted](the "**Purchase Price**"). The Purchase Price shall be satisfied in accordance with Section 3.3, and subject to adjustment only as set forth in Article 4. The Purchaser and Vendor acknowledge and agree that the Purchase Price reflects the fair market value of the Property as of the Closing Date, having due regard to the Assumed Liabilities connected to and embedded in the Property that depress the value of the Property.

3.2 Deposit

(a) The sum of[redacted]shall be paid by method of bank draft by the Purchaser to the Vendor's Solicitors in trust within 3 Business Days of the final acceptance of this Agreement (the "**Deposit**").

(b) If this Agreement is terminated:

(i) (A) pursuant to Section 14.1(a) by mutual agreement of the Parties, or (B) pursuant to Sections 14.1(b), 14.1(c), or 14.1(d) by the Purchaser or in the event any of the Purchaser's conditions precedent have not been waived or satisfied prior to the condition removal date, then the Deposit shall be returned to the Purchaser; or

(ii) for any other reason, the full amount of the Deposit shall be forfeited to the Vendor,

and, subject to Section 14.2, each Party shall be released from all obligations and liabilities under or in connection with this Agreement. In the event of termination of this Agreement under Section 3.2(b)(ii) pursuant to which the Vendor shall be entitled to the Deposit, the Parties agree that the amount of the Deposit constitutes a genuine pre-estimate of liquidated damages representing the Vendor's Losses and Liabilities as a result of Closing not occurring. The Purchaser hereby waives any claim or defence that the amount of the Deposit is a penalty or is otherwise not a genuine pre-estimate of the Vendor's damages.

3.3 Satisfaction of the Purchase Price

At Closing, the Purchase Price shall be paid and satisfied as follows:

(a) as to the amount of the Deposit, by crediting and setting-off the Deposit against the amount of the Purchase Price by an amount equal to the Deposit; and

(b) as to the balance of the Purchase Price (as adjusted pursuant to Article 4, the "**Closing Cash Payment**"), the Purchaser shall pay to the Vendor or the Vendor's Solicitors (in trust for and on behalf of the Vendor) such amount by certified cheque, bank draft or electronic wire transfer as the Vendor determines in its sole discretion.

ARTICLE 4
ADJUSTMENTS

4.1 Statement of Adjustments

The Vendor shall prepare and deliver to the Purchaser at least five Business Days prior to Closing a statement setting forth the Vendor's good faith calculation of the adjustments to the Purchase Price contemplated by this Article 4 (the "**Statement of Adjustments**"). The Statement of Adjustments shall be used to calculate the Purchase Price payable at Closing in accordance with Section 3.3, and shall be deemed final and binding for all purposes in connection with the adjustments contemplated by this Article 4.

4.2 Pro Rata Adjustments

Items of revenue and expense, including, but not limited to, Taxes (other than Transfer Taxes), utilities, interest and rents with respect to the Lands, as would customarily be adjusted for in a similar transaction in Alberta, shall be adjusted between the Purchaser and the Vendor as of 12:01 a.m. on the Closing Date.

ARTICLE 5
TRANSFER TAXES

5.1 Transfer Taxes

The Parties agree that:

(a) the Purchase Price does not include Transfer Taxes and the Purchaser shall be liable for and shall pay, and be solely responsible for, any and all Transfer Taxes pertaining to the Purchaser's acquisition of the Property; and

(b) the Purchaser shall indemnify the Vendor for, from and against any Transfer Taxes (including any interest or penalties imposed by a Governmental Authority) that the Vendor is required to pay or for which the Vendor may become liable as a result of any failure by the Purchaser to self-assess, pay or remit such Transfer Taxes (including GST in accordance with Section 5.2).

5.2 GST

Notwithstanding the generality of Section 5.1, the Purchaser shall pay to the Vendor or the Vendor's Solicitors by certified cheque, bank draft, solicitor's certified trust cheque or electronic wire transfer on Closing all GST payable in respect of the Transaction in accordance with the GST Legislation. Notwithstanding the foregoing, if the Purchaser is registered under the GST Legislation, then provided that the Purchaser delivers on Closing:

(a) an officer's certificate of the Purchaser confirming that the Purchaser is buying the Property for its own account and not on behalf of any other Person; and

(b) an undertaking and indemnity under which the Purchaser covenants to remit all eligible GST and to indemnify the Vendor against any damages (including any interest or penalties imposed by a Governmental Authority) by reason of the failure of the Purchaser so to do,

the Vendor will not collect GST from the Purchaser and the Purchaser will file returns and remit any GST eligible when and to the extent required by the GST Legislation.

ARTICLE 6
REPRESENTATIONS AND WARRANTIES

6.1 Vendor's Representations

The Vendor hereby represents and warrants to the Purchaser that:

(a) subject to Court Approval being obtained, the Vendor has taken all necessary corporate or other acts to authorize the execution and delivery by it of this Agreement;

(b) subject to Court Approval being obtained, this Agreement has been duly executed and delivered by the Vendor and constitutes a legal, valid and binding obligation of the Vendor and is enforceable against the Vendor in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Applicable Laws relating to creditors' rights generally and subject to general principles of equity; and

(c) the Purchaser will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by the Vendor.

6.2 Purchaser's Representations

The Purchaser hereby represents and warrants to the Vendor that:

(a) it is, as applicable, a corporation duly incorporated or a limited partnership duly formed and validly subsisting under the laws of the jurisdiction of its incorporation or formation and has the requisite power and authority to enter into this Agreement and to complete the Transaction;

(b) it has taken all necessary corporate or other acts to authorize the execution, delivery and performance by it of this Agreement;

(c) if the Lands are located in areas defined as controlled lands under the *Foreign Ownership of Lands Regulations* (Alberta), that it is not a foreign controlled corporation within the meaning of such term as defined in such regulations;

(d) neither the execution of this Agreement nor its performance by the Purchaser will result in a breach of any term or provision or constitute a default under any indenture, mortgage, deed of trust or any other agreement to which the Purchaser is a party or by which it is bound which breach could materially affect the ability of the Purchaser to perform its obligations hereunder;

(e) the execution, delivery and performance of this Agreement by the Purchaser does not and will not require any consent, approval, authorization or other order of, action by, filing with or notification to, any Governmental Authority, except where failure to obtain such consent, approval, authorization or action, or to make such filing or notification, would not prevent or materially delay the consummation by the Purchaser of this Transaction;

(f) this Agreement has been duly executed and delivered by it and constitutes a legal, valid and binding obligation of the Purchaser and is enforceable against the Purchaser in accordance with its terms, except as enforceability may be limited by applicable bankruptcy, insolvency, reorganization or similar Applicable Laws relating to creditors' rights generally and subject to general principles of equity;

(g) the Purchaser is not a non-Canadian Person within the meaning of the *Investment Canada Act* (Canada) nor a non-resident of Canada for the purposes of the *Income Tax Act* (Canada);

(h) the Vendor will not be liable for any brokerage commission, finder's fee or other similar payment in connection with the Transaction because of any action taken by, or agreement or understanding reached by the Purchaser;

(i) on the Closing Date, the Purchaser will meet all requirements of Governmental Authorities to purchase and accept a transfer of the Property;

(j) the Purchaser will have the financial resources necessary to pay, as and when due from the Purchaser, the Purchase Price (including the Deposit), the Transfer Taxes, the Cure Costs, its legal fees and expenses, registration costs and any other amounts payable by the Purchaser pursuant hereto; and

(k) the Purchaser has the financial resources necessary to post or satisfy all necessary security, deposits, letters of credit, guarantees or other financial assurances necessary to take possession of the Property and to satisfy the security required by the Assumed Contracts.

6.3 Enforcement of Representations and Warranties

(a) The representations and warranties of the Vendor contained in this Agreement shall merge on Closing and shall thereafter be of no further force and effect. Effective upon the occurrence of Closing, the Purchaser hereby releases and forever discharges the Vendor from any breach of any representations and warranties set forth in this Agreement. For greater certainty, none of representations and warranties of the Vendor contained in this Article 6 shall survive Closing and, the Purchaser's sole recourse for any material breach of representation or warranty by the Vendor shall be for the Purchaser to not complete the Transaction in accordance with this Agreement.

(b) The representations and warranties of the Vendor made herein or pursuant hereto are made for the exclusive benefit of the Purchaser, and the representations and warranties of the Purchaser made herein or pursuant hereto are made for the exclusive benefit of the Vendor, as the case may be, and are not transferable and may not be made the subject of any right of subrogation in favour of any other Person.

(c) The Parties expressly acknowledge and agree that the provisions of this Section 6.3 and the limit on each Party's liability set out in this Section 6.3 are intended by the Parties as a limitation of liability that represents a fair and equitable allocation of the risks and liabilities that each Party has agreed to assume in connection with the subject matter hereof and is not an agreement within the provision of subsection 7(2) of the *Limitations Act* (Alberta).

ARTICLE 7
"AS IS, WHERE IS" AND NO ADDITIONAL REPRESENTATIONS AND WARRANTIES

7.1 Due Diligence Acknowledgement

The Purchaser acknowledges and agrees that:

(a) it has sole responsibility to perform any inspections it deems pertinent to the purchase of the Property and to be satisfied as to the condition of the Property prior to the Closing Date;

(b) notwithstanding the fact that it was permitted to review any diligence materials and disclosures provided by the Vendor, including the Data Room Information, the Vendor assumes no liability for errors or omissions in such diligence materials and disclosure or any other property listings or advertising, promotional or publicity statements and materials, and makes no representations or warranties in respect thereof;

(c) by entering into this Agreement with the Vendor, the Purchaser shall be deemed to represent, warrant and agree with respect to the Property that:

(i) the Purchaser has or will have inspected the Property and is familiar and satisfied with the physical condition thereof including in respect of the Assumed Environmental Liabilities and has conducted such investigation of the Property as the Purchaser has determined appropriate;

(ii) none of the Vendor, its Affiliates or their respective Representatives have made any oral or written representation, warranty, promise or guarantee whatsoever to the Purchaser, expressed or implied, and in particular, that no such representations, warranties, guarantees, or promises have been made with respect to the physical condition, operation, or any other matter or thing affecting or related to the Property and/or the offering or sale of the Property;

(iii) the Purchaser has not relied upon any representation, warranty, guarantee or promise or upon any statement made or any information provided concerning the Property, including the Data Room Information made available to the Purchaser by the Vendor, its Affiliates or their respective Representatives;

(iv) the Purchaser has entered into this Agreement after having relied solely on its own independent investigation, inspection, analysis, appraisal and evaluation of the Property and the facts and circumstances related thereto;

(v) any information provided or to be provided by or on behalf of the Vendor with respect to the Property, including all Data Room Information, was obtained from information provided to the Vendor and the Vendor has not made any independent investigation or verification of such information, and makes no representations as to the accuracy or completeness of such information;

(vi) without limiting the generality of the foregoing, the Vendor was not under any obligation to disclose to the Purchaser, and shall have no liability for its failure to disclose to the Purchaser, any information known to it relating to the Property except as may be required by any Applicable Law; and

(vii) none of the Vendor, its Affiliates or their respective Representatives are liable or bound in any manner by any oral or written statements, representations or information pertaining to the Property, or the operation thereof, made or furnished by any real estate broker, agent, employee, or other Person.

7.2 "As Is, Where Is", No Additional Representations

(a) Without limiting any other provision of this Agreement, the Purchaser acknowledges and agrees that it is acquiring the Property on an "as is, where is" and "without recourse" basis with all defects, both patent and latent, and with all faults, whether known or unknown, presently existing or that may hereafter arise. The Purchaser acknowledges and agrees that the Vendor, its Affiliates and their respective Representatives have not made, do not make and specifically negate and disclaim any representation, warranty, promise, covenant, agreement or guaranty of any kind or character whatsoever, whether express or implied, oral or written, past, present or future, of, as to, concerning or with respect to the Property. For greater certainty, but without limitation, except as expressly set forth in this Agreement, none of the Vendor, its Affiliates or their respective Representatives make any condition, representation or warranty whatsoever, express or implied, with respect to:

(i) the value, nature, quality or condition of the Property, including the water, soil and geology;

(ii) the income to be derived from the Property, if any;

(iii) the suitability of the Property for any and all purposes, activities and uses which the Purchaser may desire to conduct thereon;

(iv) the compliance of or by the Property or its operation with any Applicable Law (including Environmental Laws);

(v) the habitability, merchantability, marketability, profitability or fitness for a particular purpose of the Property;

(vi) the validity or enforceability of the Assumed Contracts or the ability to assign any Unassignable Contracts;

(vii) any regulatory approvals, permits and licenses, consents or authorizations that may be needed to complete the purchase of the Property contemplated by this Agreement;

(viii) the manner or quality of the construction or materials, if any, incorporated into the Property;

(ix) the manner, quality, state of repair or lack of repair of the Property;

(x) the existence of any view from the Property or that any existing view will not be obstructed in the future;

(xi) the conformity of any plans or specifications for the Property that may be provided to the Purchaser;

(xii) the conformity of the Property to applicable zoning by-law or building code requirements and whether the Property complies with any existing land use or zoning by-laws or regulations, or municipal development agreements or plans;

(xiii) the existence of soil instability, past soil repairs, susceptibility to landslides, sufficiency of under-shoring, sufficiency of drainage, or any other matter affecting the stability or integrity of the Property or any buildings or improvements situated thereon;

(xiv) whether the Property is located in a seismic hazards zone or a flood hazard zone;

(xv) the presence of termites or other pests and any damage to the Property and/or its improvements that may have occurred as a result;

(xvi) the condition of any improvements included in this Agreement;

(xvii) the size and dimensions of the Property, including the aggregate net developable acres;

(xviii) the nature and quantum of the Assumed Liabilities; and

(xix) any other matter with respect to the Property.

(b) The Purchaser acknowledges that the release and disclaimer described in this Article 7 is intended to be very broad and the Purchaser expressly waives and relinquishes any rights or benefits it may have under any Applicable Law designed to invalidate releases of unknown or unsuspected claims.

(c) Except for its express rights under this Agreement, the Purchaser hereby waives all rights and remedies (whether now existing or hereinafter arising and including all common law, tort, contractual and statutory rights and remedies) against the Vendor, its Affiliates and their respective Representatives in respect of the Property and any representations or statements made or information or data furnished to the Purchaser or its Representatives in connection herewith (whether made or furnished orally or by electronic, faxed, written or other means). Such waiver is absolute, unlimited, and includes, but is not limited to, waiver of express warranties, implied warranties, any warranties contained in the *Sale of Goods Act* (Alberta) (or similar applicable statutes, all as may be amended, repealed or replaced), warranties of fitness for a particular use, warranties of merchantability, warranties of occupancy, strict liability and claims of every kind and type, including claims regarding defects, whether or not discoverable or latent, product liability claims, or similar claims, and all other claims that may be later created or conceived in strict liability or as strict liability type claims and rights.

(d) The Purchaser through its Representatives will, upon 3 Business Days prior notice by the Purchaser to the Vendor, be given reasonable access during the Vendor's regular business hours to the Property, which shall, at a minimum, be from 9:00 a.m. – 5:00 p.m. (MST), subject to tenant's rights under the Leases. The Vendor agrees to allow the Purchaser and the Purchaser's Representatives to carry out, at the Purchaser's expense, such tests and inspections as the Purchaser may deem necessary, subject to the limitations contained in the subsequent paragraph hereto. The Purchaser will promptly repair at its cost any damage caused to the Property as a result of such access by the Purchaser or its Representatives, and if the Purchaser fails to do so then the Vendor may effect such repairs and deduct the cost thereof from the Deposit. The Purchaser will indemnify and hold the Vendor harmless from any and all liabilities, actions, costs, damages and liens (including builders' liens) arising from the entry of the Purchaser or its Representatives on the Property.

(e) Notwithstanding anything to the contrary contained herein, the Purchaser shall not be permitted to carry out any intrusive testing or investigations without the prior written consent of the Vendor, which consent shall not be unreasonably withheld or delayed and which testing and investigations shall, at the option of the Vendor, be carried out in the presence of a representative of the Vendor. Furthermore, the Purchaser shall not directly or indirectly contact any of the tenants without providing prior written notice to the Vendor and an opportunity for the Vendor or its representative to be present at any such meeting with a tenant or to participate in any telephone, email or other conversation. The Purchaser shall keep all information obtained from the Vendor in strict confidence and will only make such information available to those Purchaser's Representatives on a need to know basis.

ARTICLE 8
RISK, INSURANCE AND EXPROPRIATION

8.1 Risk

The Property will be at the sole risk and responsibility of the Vendor until the Closing Date, and thereafter at the sole risk and responsibility of the Purchaser.

8.2 Insurance

Any property, liability and other insurance maintained by the Vendor shall not be transferred at Closing and shall remain the responsibility of the Vendor until the Closing Date. The Purchaser shall be responsible for placing its own property, liability and other insurance coverage with respect to the Property in respect of the period from and after 12:01 a.m. on the Closing Date.

8.3 Expropriation

If before the Closing Date:

(a) all or substantially all of the Property is expropriated or seized by any Governmental Authority or any other Person in accordance with Applicable Law or if notice of any such expropriation or seizure shall have been given in accordance with Applicable Law, the Purchaser, in its discretion, acting reasonably, shall have the option, exercisable by notice to the Vendor given prior to the Closing Date to either: (i) complete the Transaction; or (ii) terminate this Agreement as provided in Section 14.1(b); or

(b) if less than all or substantially all of the Property is expropriated or seized by any Governmental Authority or any other Person in accordance with Applicable Law or if notice of any such expropriation or seizure shall have been given in accordance with Applicable Law, the Purchaser shall be required to complete the Transaction, without any reduction or adjustment to the Purchase Price; *provided, however*, that any monetary compensation received by the Vendor in connection with an expropriation or seizure described in this Section 8.3 shall be received by the Vendor in trust for, and paid to the Purchaser.

ARTICLE 9
INDEMNIFICATION

9.1 Indemnification Given by Purchaser

If Closing occurs, the Purchaser shall:

(a) be liable to the Vendor, its Affiliates and their respective Representatives for; and

(b) as a separate covenant, indemnify and save harmless the Vendor, its Affiliates and their respective Representatives from and against,

all Losses and Liabilities suffered, sustained, paid or incurred by the Vendor, its Affiliates or their respective Representatives related to or in connection with the Property and the Assumed Liabilities, whether arising or accruing before, on or after the Closing Date; including: (i) all Losses and Liabilities attributable to the ownership, operation, use, construction or maintenance of the Property; (ii) all Losses and Liabilities related to any Unassignable Contracts as contemplated in Section 2.3, including any and all Cure Costs; and (iii) any other Losses and Liabilities for which the Purchaser has agreed to indemnify the Vendor pursuant to this Agreement. The Purchaser's indemnity obligations set forth in this Section 9.1 shall survive the Closing Date indefinitely pursuant to Section 15.3.

9.2 Third Party Claims

(a) If the Vendor receives written notice of the commencement or assertion of any Third Party Claim for which the Purchaser is liable (or has otherwise agreed to indemnify the Vendor, its Affiliates or their respective Representatives against) pursuant to this Agreement, the Vendor shall give the Purchaser reasonably prompt notice thereof, but in any event no later than ten days after receipt of such notice of such Third Party Claim. Such notice to the Purchaser shall describe the Third Party Claim in reasonable detail and shall indicate, if reasonably practicable, the estimated amount (or the method of computation of the amount) of the Losses and Liabilities that has been or may be sustained by the Vendor, and a reference to the provisions of this Agreement upon which such claim is based.

(b) The Purchaser may participate in the defence of any Third Party Claim by giving notice to that effect to the Vendor not later than ten days after receiving notice of that Third Party Claim (the "**Notice Period**") so long as: (i) the Purchaser first acknowledges to the Vendor, in writing, liability to the Vendor under this Agreement with respect to such Third Party Claim and that the outcome of such Third Party Claim does not alter or diminish the Purchaser's obligation to indemnify the Vendor pursuant to this Agreement, subject to the Purchaser's right to contest in good faith the Third Party Claim; (ii) the Purchaser has the financial resources to defend against the Third Party Claim and fulfill any indemnification obligations and has provided the Vendor with evidence thereof; (iii) the Third Party Claim involves monetary damages; and (iv) the Purchaser participates in the defence of the Third Party Claim actively and diligently. The Purchaser's right to do so shall be subject to the rights of any insurer or other third party who has potential liability in respect of that Third Party Claim. The Purchaser shall pay all of its own expenses of participating in or assuming such defence. In the event that the Purchaser elects to participate in the defence of a Third Party Claim pursuant to this Section 9.2(b), then the Vendor shall cooperate in good faith in the defence of each Third Party Claim and may participate in such defence assisted by counsel of its own choice at its own expense.

(c) If the Vendor has not received notice within the Notice Period that the Purchaser has elected to participate in the defence of such Third Party Claim in accordance with Section 9.2(b), or if the Purchaser has given such notice but thereafter fails or is unable to participate in the defence of such Third Party Claim actively and diligently, the Vendor may, at its option, elect to settle or compromise the Third Party Claim on terms of its choosing, or assume such defence assisted by counsel of its own choosing, and the Purchaser shall be liable for all reasonable costs and expenses paid or incurred in connection therewith and any Losses and Liabilities suffered or incurred by the Vendor with respect to such Third Party Claim.

9.3 Failure to Give Timely Notice

Notwithstanding that time is of the essence, a failure to give timely notice as provided in this Article 9 shall not affect the rights or obligations of any Party except and only to the extent that, as a result of such failure, any Party which was entitled to receive such notice was deprived of its right to recover any payment under any applicable insurance coverage or was otherwise prejudiced as a result of such failure.

9.4 No Merger

There shall not be any merger of any liability or indemnity hereunder in any assignment, conveyance, transfer or document delivered pursuant hereto notwithstanding any rule of law, equity or statute to the contrary and all such rules are hereby waived.

ARTICLE 10
ENVIRONMENTAL MATTERS

10.1 Assumption of Environmental Liabilities

The Purchaser acknowledges that insofar as the environmental condition of the Property is concerned, and without limiting the generality of Section 7.2, it will acquire the Property on an "as is, where is" and "without recourse" basis. The Purchaser acknowledges that it has had or will have the opportunity to inspect and assess the environmental condition of the Property and that it is not relying upon any representation or warranty of the Vendor, its Affiliates or their respective Representatives as to the environmental condition of the Property, Environmental Liabilities or Remediation and Reclamation Obligations. The Purchaser further agrees that, it shall be solely liable and responsible for any and all Losses and Liabilities which the Vendor, its Affiliates or their respective Representatives may suffer, sustain, pay or incur, as a result of any matter or thing arising out of, resulting from, attributable to or connected with any Assumed Environmental Liabilities. Once Closing has occurred and without limiting the foregoing, the Purchaser shall be solely responsible for all Assumed Environmental Liabilities, hereby releases the Vendor from any claims the Purchaser may have against the Vendor with respect to all such Assumed Environmental Liabilities, and acknowledges its indemnification obligations described in Article 9. The Purchaser and the Vendor acknowledge and agree that the Environmental Liabilities are future costs and obligations associated with ownership of the Property that are tied and connected to the ownership of the Property such that they are embedded with the Property. The Purchaser acknowledges and agrees that these covenants shall survive Closing.

ARTICLE 11
COVENANTS

11.1 Court Approval

(a) The Vendor shall prepare all materials, and shall as soon as reasonably practicable after execution of this Agreement bring an application for the issuance of the Approval and Vesting Order in the Court. The Purchaser, at its own expense, shall promptly provide to the Vendor all such information and assistance within the Purchaser's power as the Vendor may reasonably request to obtain the Approval and Vesting Order, including such information as may be required to reasonably evaluate the Purchaser's financial ability to perform its obligations hereunder. The application for the Approval and Vesting Order may be adjourned or rescheduled by the Vendor or their Representatives upon notice to the Purchaser.

(b) In the event an appeal is taken, or a stay pending appeal is requested, from the Court Orders, the Vendor shall promptly notify the Purchaser of such appeal or stay request and shall provide to the Purchaser a copy of the related notice of appeal or order of stay. The Vendor shall also provide the Purchaser with written notice of any motion or application filed in connection with any appeal from either of such orders.

11.2 Leases

The Purchaser acknowledges that it is purchasing the Property subject to any lease arrangement(s) entered into by the Vendor with respect to the Property (herein referred to as the "**Lease(s)**"), each of which shall be described as a Permitted Encumbrance in Schedule 1.1(nn), and which shall constitute an Assumed Contract, and in accordance with such acknowledgement, the Purchaser agrees that it is purchasing the Lands subject to the rights of any tenant as set out in any such Lease(s).

11.3 Possession

The Vendor shall deliver to the Purchaser on the Closing Date any keys, combinations, codes and other similar such items and information relating to the Property, if any.

11.4 Title Insurance

The Purchaser shall obtain title insurance coverage with a reputable title insurance provider in order to allow for the unconditional release of the Purchase Price on the Closing Date, notwithstanding that the Approval and Vesting Order may not be registered against title to the Lands as at such date. The Vendor shall use commercially reasonable efforts to assist the Purchaser in obtaining such title insurance coverage. The cost of obtaining any title insurance in connection with the purchase of the Property shall be at the sole cost of the Purchaser.

ARTICLE 12
CONDITIONS

12.1 Mutual Conditions

The respective obligations of the Parties to complete the purchase and sale of the Property are subject to the following conditions being fulfilled or performed as at or prior to the Closing Date:

(a) the Court shall have granted the Approval and Vesting Order;

(b) the Approval and Vesting Order shall be a Final Order;

(c) no Governmental Authority shall have enacted, issued or promulgated any final or non-appealable order or Applicable Law which has the effect of: (i) making any of the transactions contemplated by this Agreement illegal; or (ii) otherwise prohibiting, preventing or restraining the Vendor from the sale of the Property; and

(d) the Closing is not otherwise prohibited by Applicable Law.

The foregoing conditions are for the mutual benefit of the Vendor and the Purchaser and may be asserted by the Vendor or the Purchaser regardless of the circumstances and may be waived only with the agreement of both the Vendor and the Purchaser.

12.2 Conditions for the Benefit of the Purchaser

The obligation of the Purchaser to complete the purchase of the Property is subject to the following conditions being fulfilled or performed as at or prior to the Closing Date:

(a) the Vendor confirming the termination of the Motor Fuel Supply Agreement, to be effective concurrently with Closing, pursuant to the Approval and Vesting Order;

(b) all representations and warranties of the Vendor contained in Section 6.1 of this Agreement shall be true and correct in all material respects as at the Closing Date with the same force and effect as if made at and as of such time;

(c) the Vendor shall have complied with and performed, in all material respects, all of its covenants and obligations contained in this Agreement; and

(d) the Vendor shall have executed and delivered or caused to have been executed and delivered to the Purchaser at or before the Closing all the documents contemplated in Section 13.2.

The foregoing conditions are for the exclusive benefit of the Purchaser and may be waived by it in its sole discretion, in whole or in part, from time to time without prejudice to any other rights which the Purchaser may have.

12.3 Conditions for the Benefit of the Vendor

The obligation of the Vendor to complete the sale of the Property is subject to the following conditions being fulfilled or performed as at or prior to the Closing Date:

(a) all representations and warranties of the Purchaser contained in Section 6.2 of this Agreement shall be true and correct in all material respects as at the Closing Date with the same force and effect as if made at and as of such time;

(b) the Purchaser shall have complied with and performed in all material respects all of its covenants and obligations contained in this Agreement;

(c) the Purchaser shall have executed and delivered or caused to have been executed and delivered to the Vendor at or before the Closing all the documents contemplated in Section 13.3;

(d) Court Approval shall have been granted; and

(e) the Vendor has not lost its ability to convey the Property due to the appointment of a receiver or a receiver-manager, an order of the Court or otherwise pursuant to the Receivership Proceedings, provided such order or other action pursuant to the Receivership Proceedings is not at the voluntary initiative of the Vendor.

The foregoing conditions are for the exclusive benefit of the Vendor and may be waived by it in its sole discretion, in whole or in part, at any time and from time to time without prejudice to any other rights which the Vendor may have.

12.4 Satisfaction of Conditions

Each of the Parties shall proceed diligently and in good faith and use all commercially reasonable efforts to fulfill and assist in the fulfillment of the conditions set forth in Sections 12.1, 12.2 and 12.3. In addition, each of the Parties agrees not to take any action that could reasonably be expected to preclude, delay or have an adverse effect on this Transaction or would render, or may reasonably be expected to render, any representation or warranty made by it in this Agreement untrue in any material respect.

ARTICLE 13
CLOSING

13.1 Closing Date and Place of Closing

Subject to the conditions set out in this Agreement, the Transaction shall close and be completed on the Closing Date, or at such other time as the Parties may agree in writing.

13.2 Deliveries on Closing by the Vendor

The Vendor shall deliver (or cause to be delivered) to the Purchaser's Solicitor on or before the Closing Date:

(a) a Court certified copy of the Approval and Vesting Order;

(b) the Assignment and Assumption Agreement duly executed by the Vendor;

(c) all documents listed in Section 13.3 which contemplate execution by the Vendor;

(d) any other documents, resolutions and certificates as is referred to in this Agreement or as the Purchaser may reasonably require to give effect to this Agreement.

13.3 Deliveries on Closing by the Purchaser

The Purchaser shall deliver (or cause to be delivered) to the Vendor's Solicitor, or as otherwise directed, on or before the Closing Date:

(a) the Closing Cash Payment in accordance with Section 3.3(b);

(b) payment of all Transfer Taxes payable on Closing to the Vendor (or evidence of self-assessment and payment by the Purchaser thereof to the relevant Governmental Authorities);

(c) payment of all Cure Costs payable on Closing to the Vendor (or evidence of payment by the Purchaser thereof to the relevant counterparty);

(d) the certificate of the Purchaser and the GST undertaking and indemnity referred to in Section 5.2;

(e) the Assignment and Assumption Agreement duly executed by the Purchaser;

(f) all documents listed in Section 13.2 which contemplate execution by the Purchaser;

(g) a copy of the Commitment to Title Insurance obtained by the Purchaser pursuant to Section 11.4; and

(h) any other documents, resolutions and certificates as is referred to in this Agreement or as the Vendor may reasonably require to give effect to this Agreement.

ARTICLE 14
TERMINATION

14.1 Grounds for Termination

This Agreement may be terminated at any time prior to Closing:

(a) by the mutual written agreement of the Vendor and the Purchaser, provided however that if this Agreement has been approved by the Court, any such termination shall require either the consent of the Vendor, or approval of the Court;

(b) by written notice from the Purchaser to the Vendor in accordance with Section 8.3(a);

(c) by the Purchaser, upon written notice to the Vendor, if there has been a material breach by the Vendor of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Purchaser, and: (i) such breach is not curable and has rendered the satisfaction of any condition in Section 12.2 impossible by the Outside Date; or (ii) if such breach is curable, the Purchaser has provided prior written notice of such breach to the Vendor, and such breach has not been cured within ten days (or, if not curable within ten days, such longer period as is reasonable under the circumstances, not to exceed thirty days) following the date upon which the Vendor received such notice;

(d) by the Purchaser, upon written notice to the Vendor, any time after the Outside Date, if the Closing has not occurred by the Outside Date and such failure to close was not caused by or as a result of the Purchaser's breach of this Agreement;

(e) by the Vendor, upon written notice to the Purchaser, if there has been a material breach by the Purchaser of any material representation, warranty or covenant contained in this Agreement, which breach has not been waived by the Vendor, and: (i) such breach is not curable and has rendered the satisfaction of any condition in Section 12.3 impossible by the Outside Date; or (ii) if such breach is curable, the Vendor has provided prior written notice of such breach to the Purchaser, and such breach has not been cured within ten days (or, if not curable within ten days, such longer period as is reasonable under the circumstances, not to exceed thirty days) following the date upon which the Purchaser received such notice; or

(f) by the Vendor, upon written notice to the Purchaser, any time after the Outside Date, if the Closing has not occurred by the Outside Date and such failure to close was not caused by or as a result of the Vendor's breach of this Agreement.

14.2 Effect of Termination

Notwithstanding any termination of this Agreement by the Vendor or the Purchaser as permitted under Section 14.1, the provisions of Sections 3.2 (Deposit), 15.1 (Public Announcements), 15.4 (Governing Law), 15.5 (Consequential Damages), 15.11 (Costs and Expenses) and 15.15 (Third Party Beneficiaries) shall remain in full force and effect following any such permitted termination, and the Deposit shall be governed by Section 3.2.

ARTICLE 15
GENERAL

15.1 Public Announcements

(a) Subject to Section 15.1(b), if a Party intends to issue a press release or other public disclosure of this Agreement, the terms hereof or the Transaction, the disclosing Party shall provide the other Parties with an advance copy of any such press release or public disclosure with sufficient time to enable the other Parties to review such press release or other public disclosure and provide any comments. The disclosing Party shall not issue such press release or other public disclosure without the prior written consent of the other Parties, such consent not to be unreasonably withheld.

(b) Notwithstanding Section 15.1(a): (i) this Agreement may be filed by the Vendor with the Court; and (ii) the Transaction may be disclosed by the Vendor to the Court. The Parties further agree that:

  (i) the Vendor may prepare and file reports and other documents with the Court containing references to the Transaction and the terms of such Transaction; and

  (ii) the Vendor and its professional advisors may prepare and file such reports and other documents with the Court containing references to the Transaction contemplated by this Agreement and the terms of such Transaction as may reasonably be necessary to obtain the Court Approvals and to complete the Transaction contemplated by this Agreement or to comply with their obligations to the Court.

15.2 Dissolution of Vendor

Subject to the Vendor's obligations in Section 2.3, the Purchaser acknowledges and agrees that nothing in this Agreement shall operate to prohibit or diminish in any way the right of the Vendor or any of its Affiliates to dissolve, wind-up or otherwise cease operations of the Corporations in any manner or at any time subsequent to the Closing Date as they may determine in their sole discretion, which may be exercised without regard to the impact any such action may have on the Vendor's ability to fulfil its obligations under this Agreement that survive Closing

15.3 Survival

Upon Closing, the obligations, covenants, representations and warranties of the Parties set out in this Agreement shall expire, be terminated and extinguished and of no further force or effect, provided that notwithstanding the Closing contemplated hereunder or the delivery of documents pursuant to this Agreement, the obligations and covenants of the Parties set out in Sections 2.3 (Assignment of Assumed Contracts and Third Party Consents), 6.3 (Enforcement of Representations and Warranties), 11.2 (Leases) and 11.3 (Possession), and Article 5 (Transfer Taxes), Article 7 ("As Is, Where Is" and No Additional Representations and Warranties), Article 9 (Indemnification), Article 10 (Environmental Matters) and Article 15 (General), shall survive Closing, shall remain in full force and effect, shall not merge as a result of Closing and shall be binding on the Parties indefinitely thereafter except as expressly stated to the contrary therein.

15.4 Governing Law

(a) This Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta, and the federal laws of Canada applicable therein (excluding any conflict of law rule or principle of such laws that might refer such interpretation or enforcement to the laws of another jurisdiction). The Parties attorn to the jurisdiction of the Court for the resolution of any such dispute arising under this Agreement.

(b) Each Party agrees that service of process on such Party as provided in Section 15.13 shall be deemed effective service of process on such Party.

15.5 Consequential Damages

Under no circumstance shall any of the Parties, their Representatives or their respective directors, officers, employees or agents be liable for any punitive, exemplary, consequential or indirect damages (including for greater certainty, any loss of profits) (collectively, "**Consequential Damages**") that may be alleged to result, in connection with, arising out of, or relating to this Agreement or the Transaction, other than Consequential Damages for which the Vendor is liable as a result of a Third Party Claim (which liability of the Vendor shall be subject to and recoverable under Article 9 (Indemnification)).

15.6 Further Assurances

Each of the Parties hereto from and after the date hereof shall, from time to time, and at the request and expense of the Party requesting the same, do all such further acts and things and execute and deliver such further instruments, documents, matters, papers and assurances as may be reasonably requested to complete the Transaction and for more effectually carrying out the true intent and meaning of this Agreement.

15.7 Assignment

The Purchaser shall not, without the Vendor's prior written consent, assign any right or interest in this Agreement, which consent may be withheld in the Vendor's sole and absolute discretion, except that the Purchaser shall have the right to assign any or all of its rights, interests or obligations hereunder to one or more Affiliates of the Purchaser, provided that:

(a) such Affiliate agrees to be bound by the terms of this Agreement;

(b) the Purchaser shall remain liable hereunder for any breach of the terms of this Agreement by such Affiliate;

(c) such assignment shall not release the Purchaser from any obligation or liability hereunder in favour of the Vendor; and

(d) the Purchaser shall acknowledge and confirm its continuing obligations in favour of the Vendor in an assignment and assumption agreement in form and substance satisfactory to the Vendor.

15.8 Waiver

No failure on the part of any Party in exercising any right or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any such right or remedy preclude any other or further exercise thereof or the exercise of any right or remedy in law or in equity or by statute or otherwise conferred. No waiver by any Party of any breach (whether actual or anticipated) of any of the terms, conditions, representations or warranties contained herein shall take effect or be binding upon that Party unless the waiver is expressed in writing under the authority of that Party. Any waiver so given shall extend only to the particular breach so waived and shall not limit or affect any rights with respect to any other or future breach.

15.9 Amendment

This Agreement shall not be varied in its terms or amended by oral agreement or by representations or otherwise other than by an instrument in writing dated subsequent to the date hereof, executed by a duly authorized representative of each Party.

15.10 Time of the Essence

Time is of the essence in this Agreement.

15.11 Costs and Expenses

Unless otherwise provided for in this Agreement, each Party shall be responsible for all costs and expenses (including the fees and disbursements of legal counsel, bankers, investment bankers, accountants, brokers and other advisors) incurred by it in connection with this Agreement and the Transaction. Notwithstanding any other provision of this Agreement, the Purchaser shall pay the cost of all surveys, title insurance policies and title reports ordered by the Purchaser.

15.12 Entire Agreement

This Agreement and the Confidentiality Agreement (the terms and conditions of which are incorporated by reference into this Agreement) constitute the entire agreement between the Parties with respect to the subject matter hereof and cancel and supersede all prior agreements, understandings, negotiations and discussions, whether oral or written, between the Parties with respect to the subject matter hereof. There are no conditions, covenants, agreements, representations, warranties or other provisions, whether oral or written, express or implied, collateral, statutory or otherwise, relating to the subject matter hereof other than those contained in this Agreement or in the Confidentiality Agreement.

15.13 Notices

Any notice, direction or other communication given regarding the matters contemplated by this Agreement must be in writing, sent by personal delivery, courier or electronic mail and addressed:

(a) in the case of the Vendor:

Ernst & Young Inc., in its capacity as receiver and manager of 1963843 Alberta Ltd. & Penhold Crossing Plaza Ltd., and not in its personal or corporate capacity
2200, 215 – 2nd Street SW
Calgary, AB T2P 1M4

Attention: Peter Chisholm / Evan MacKinnon
Email: peter.chisholm@parthenon.ey.com / evan.mackinnon@parthenon.ey.com

With a copy to the Vendor's Solicitors:

Dentons Canada LLP
15th Floor, Bankers Court, 850 – 2nd Street SW
Calgary, Alberta T2P 0R8

Attention: Derek Pontin / John Regush
Email: derek.pontin@dentons.com / john.regush@dentons.com

(b) In the case of the Purchaser:

Attention:
Email:

With a copy to the Purchaser's Solicitors:

Schnell Hardy Jones LLP
#504, 4909 – 49th Street
Red Deer, AB
T4N 1V1

Attention: Evan C. Hardy
Email: evan@schnell-law.com

A notice is deemed to be given and received if: (i) sent by personal delivery or courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day; or (ii) email, on the date of transmission if it is a Business Day and the transmission was made prior to 4:00 p.m. (local time in place of receipt), and otherwise on the next Business Day. A Party may change its address for service from time to time by providing a notice in accordance with the foregoing. Any subsequent notice must be sent to the Party at its changed address. Any element of a Party's address that is not specifically changed in a notice will be assumed not to be changed. Sending a copy of a notice to a Party's legal counsel as contemplated above is for information purposes only and does not constitute delivery of the notice to that Party. The failure to send a copy of a notice to legal counsel does not invalidate delivery of that notice to a Party.

15.14 Enurement

This Agreement shall be binding upon, and enure to the benefit of, the Parties and their respective successors and permitted assigns.

15.15 Third Party Beneficiaries

Except as otherwise provided for in Article 9 (Indemnification), each Party intends that this Agreement shall not benefit or create any right or cause of action in or on behalf of any Person other than the Parties and their successors and permitted assigns, and, except for the Representatives indemnified by the Purchaser pursuant to Article 9 (Indemnification), no Person, other than the Parties and their successors and permitted assigns shall be entitled to rely on the provisions hereof in any action, suit, proceeding, hearing or other forum. Despite the foregoing, the Purchaser acknowledges to each of the Vendor's Representatives its direct rights against them under Article 9 (Indemnification) of this Agreement. To the extent required by Applicable Law to give full effect to these direct rights, the Purchaser agrees and acknowledges that the Vendor is acting as agent and/or as trustee of its Representatives.

15.16 Severability

If any provision of this Agreement or any document delivered in connection with this Agreement is partially or completely invalid or unenforceable, the invalidity or unenforceability of that provision shall not affect the validity or enforceability of any other provision of this Agreement, all of which shall be construed and enforced as if that invalid or unenforceable provision were omitted. The invalidity or unenforceability of any provision in one jurisdiction shall not affect such provision validity or enforceability in any other jurisdiction.

15.17 Counterparts

This Agreement may be executed in any number of counterparts (including by electronic means), each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by facsimile or other electronic means of an executed counterpart of this Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

[THE BALANCE OF THIS PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF this Agreement has been properly executed by the Parties as of the date first above written.

1963843 ALBERTA LTD. & PENHOLD CROSSING PLAZA LTD., by and through its Court-appointed receiver and manager, Ernst & Young Inc., not acting in its personal or corporate capacity

Per: ______________________
Name: Peter Chisholm
Title: SVP

Per: ______________________
Name:
Title:

1676556 ALBERTA LTD.

Per: ______________________
Name:
Title:

SCHEDULE 1.1(d)

Form of Approval and Vesting Order

COURT FILE NUMBER	1901-12274	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
APPLICANT	ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)	
RESPONDENTS	1963843 ALBERTA LTD., PENHOLD CROSSING PLAZA LTD., ASHWANI AWASTHI, SWARNJIT SINGH KOONER, SUKHBIR NAIN, OM ACAYOT ABHOY, and ANURAG SUMAN	
DOCUMENT	**APPROVAL AND VESTING ORDER** **(Sale by Receiver)**	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attention: Derek Pontin / John Regush Ph. (403) 268-6301 / 7086 Fx. (403) 268-3100 File No.: 131079-102	

DATE ON WHICH ORDER WAS PRONOUNCED: ______________________________

LOCATION WHERE ORDER WAS PRONOUNCED: ______________________________

NAME OF JUSTICE WHO MADE THIS ORDER: ______________________________

UPON THE APPLICATION by Ernst & Young Inc. LIT in its capacity as the Court-appointed receiver and manager (the "Receiver") of the undertakings, property and assets of 1963843 Alberta Ltd. and Penhold Crossing Plaza Ltd. (collectively, the "Debtors") for an order approving the sale transaction (the "Transaction") contemplated by an agreement of purchase and sale (the "Sale Agreement") between the Receiver and 1676556 Alberta Ltd. (the "Purchaser") dated **[Date]**, 2021 and appended to the Third Report of the Receiver dated **[Date]**, 2021 (the "Report"), and vesting in the Purchaser the Debtors' right, title and interest in and to the assets described in the Sale Agreement (the "Purchased Assets");

AND UPON HAVING READ the Receivership Order dated November 6, 2019 (as amended from time to time, the "Receivership Order"), the Report and the Affidavit of Service; **AND UPON HEARING** the submissions of counsel for the Receiver, the Purchaser **[Names of other parties appearing]**, no one appearing for any other person on the service list, although properly served as appears from the Affidavit of Service, filed;

IT IS HEREBY ORDERED AND DECLARED THAT:

SERVICE

1. Service of notice of this application and supporting materials is hereby declared to be good and sufficient, no other person is required to have been served with notice of this application and time for service of this application is abridged to that actually given.

APPROVAL OF TRANSACTION

2. The Transaction is hereby approved and execution of the Sale Agreement by the Receiver is hereby authorized and approved, with such minor amendments as the Receiver may deem necessary. The Receiver is hereby authorized and directed to take such additional steps and execute such additional documents as may be necessary or desirable for completion of the Transaction and conveyance of the Purchased Assets to the Purchaser.

TERMINATION OF MOTOR FUEL SUPPLY AGREEMENT

3. The termination by the Receiver of the Motor Fuel Supply Agreement – Esso-Branded Motor Fuels dated December 28, 2016 among Parkland Industries Ltd. and 1963843 Alberta Ltd. and Ashwani Awasthi and Swanrjit Singh Kooner, as amended by the Amending Agreement – Esso-Branded Motor Fuel Supply Agreement dated February 2017 among Parkland Fuel Corporation and 1963843 Alberta Ltd. and Ashwani Awasthi, Swarnjit Singh Kooner and Prabhdeep Awasthi ("Motor Fuel Supply Agreement") is approved, the effective date of termination being the date of the execution by the Receiver of the Receiver's Closing Certificate (as defined in this Order).

VESTING OF PROPERTY

4. Upon delivery of a Receiver's certificate to the Purchaser substantially in the form set out in **Schedule "A"** hereto (the "Receiver's Closing Certificate"), all of the Debtors' right, title and interest in and to the Purchased Assets listed in **Schedule "B"** hereto shall vest absolutely in the name of the Purchaser, free and clear of and from any and all caveats, security interests, hypothecs, pledges, mortgages, liens, trusts or deemed trusts, reservations of ownership, royalties, options, rights of pre-emption, privileges, interests, assignments, actions, judgements, executions, levies, taxes, writs of enforcement, charges, or other claims, whether contractual, statutory, financial, monetary or otherwise, whether or not they have attached or been perfected, registered or filed and whether secured, unsecured or otherwise (collectively, "Claims") including, without limiting the generality of the foregoing:

   (a) any encumbrances or charges created by the Receivership Order;

(b) any charges, security interests or claims evidenced by registrations pursuant to the *Personal Property Security Act* (Alberta) or any other personal property registry system;

(c) any liens or claims of lien under the *Builders' Lien Act* (Alberta); and

(d) those Claims listed in **Schedule "C"** hereto (all of which are collectively referred to as the "Encumbrances", which term shall not include the permitted encumbrances, caveats, interests, easements, and restrictive covenants listed in **Schedule "D"** (collectively, "Permitted Encumbrances"))

and for greater certainty, this Court orders that all Claims including Encumbrances other than Permitted Encumbrances, affecting or relating to the Purchased Assets are hereby expunged, discharged and terminated as against the Purchased Assets

5. Upon delivery of the Receiver's Closing Certificate, and upon filing of a certified copy of this Order, together with any applicable registration fees, all governmental authorities including those referred to below in this paragraph (collectively, "Governmental Authorities") are hereby authorized, requested and directed to accept delivery of such Receiver's Closing Certificate and certified copy of this Order as though they were originals and to register such transfers, interest authorizations, discharges and discharge statements of conveyance as may be required to convey to the Purchaser clear title to the Purchased Assets subject only to Permitted Encumbrances. Without limiting the foregoing:

(a) the Registrar of Land Titles ("Land Titles Registrar") for the lands defined below shall and is hereby authorized, requested and directed to forthwith:

(i) cancel existing Certificates of Title No. 162 303 244 for those lands and premises municipally described as 2 Hawkridge Blvd, Penhold, Alberta, and legally described as:

PLAN 1623323
BLOCK 8
LOT 124
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.607 HECTARES (1.5 ACRES) MORE OR LESS

(the "Lands")

(ii) issue a new Certificate of Title for the Lands in the name of the Purchaser, namely, 1676556 Alberta Ltd.;

(iii) transfer to the New Certificate of Title the existing instruments listed in **Schedule "D"**, to this Order, and to issue and register against the New Certificate of Title such new caveats, utility rights of ways, easements or other instruments as are listed in **Schedule "D"**; and

(iv) discharge and expunge the Encumbrances listed in **Schedule "C"** to this Order and discharge and expunge any Claims including Encumbrances (but excluding Permitted Encumbrances) which may be registered after the date of the Sale Agreement against the existing Certificate of Title to the Lands;

(b) the Registrar of the Alberta Personal Property Registry (the "PPR Registrar") shall and is hereby directed to forthwith cancel and discharge any registrations at the Alberta Personal Property Registry (whether made before or after the date of this Order) claiming security interests (other than Permitted Encumbrances) in the estate or interest of the Debtors in any of the Purchased Assets which are of a kind prescribed by applicable regulations as serial-number goods.

6. In order to effect the transfers and discharges described above, this Court directs each of the Governmental Authorities to take such steps as are necessary to give effect to the terms of this Order and the Sale Agreement. Presentment of this Order and the Receiver's Closing Certificate shall be the sole and sufficient authority for the Governmental Authorities to make and register transfers of title or interest and cancel and discharge registrations against any of the Purchased Assets of any Claims including Encumbrances but excluding Permitted Encumbrances.

7. No authorization, approval or other action by and no notice to or filing with any governmental authority or regulatory body exercising jurisdiction over the Purchased Assets is required for the due execution, delivery and performance by the Receiver of the Sale Agreement.

8. Upon delivery of the Receiver's Closing Certificate together with a certified copy of this Order, this Order shall be immediately registered by the Land Titles Registrar notwithstanding the requirements of section 191(1) of the *Land Titles Act*, RSA 2000, c.L-7 and notwithstanding that the appeal period in respect of this Order has not elapsed. The Land Titles Registrar is hereby directed to accept all Affidavits of Corporate Signing Authority submitted by the Receiver in its capacity as Receiver of the Debtors and not in its personal capacity.

9. For the purposes of determining the nature and priority of Claims, net proceeds from sale of the Purchased Assets (to be held in an interest bearing trust account by the Receiver) shall stand in the place and stead of the Purchased Assets from and after delivery of the Receiver's Closing Certificate and all Claims including Encumbrances (but excluding Permitted Encumbrances) shall not attach to, encumber or otherwise form a charge, security interest, lien, or other Claim against the Purchased Assets and may be asserted against the net proceeds from sale of the Purchased Assets with the same priority as they had with respect to the Purchased Assets immediately prior to the sale, as if the Purchased Assets had not been sold and remained in the possession or control of the person having that possession or control immediately prior to the sale. Unless otherwise ordered (whether before or after the date of this Order), the Receiver shall not make any distributions to creditors of net proceeds from sale of the Purchased Assets without further order of this Court, provided however the Receiver may apply any part of such net proceeds to repay any amounts the Receiver has borrowed for which it has issued a Receiver's Certificate pursuant to the Receivership Order.

10. Except as expressly provided for in the Sale Agreement or by section 5 of the Alberta *Employment Standards Code*, the Purchaser shall not, by completion of the Transaction, have liability of any kind whatsoever in respect of any Claims against the Debtors.

11. Upon completion of the Transaction, the Debtors and all persons who claim by, through or under the Debtors in respect of the Purchased Assets, and all persons or entities having any Claims of any kind whatsoever in respect of the Purchased Assets, save and except for persons entitled to the benefit of the Permitted Encumbrances, shall stand absolutely and forever barred, estopped and foreclosed from and permanently enjoined from pursuing, asserting or claiming any and all right, title, estate, interest, royalty, rental, equity of redemption or other Claim whatsoever in respect of or to the Purchased Assets, and to the extent that any such persons or entities remain in the

possession or control of any of the Purchased Assets, or any artifacts, certificates, instruments or other indicia of title representing or evidencing any right, title, estate, or interest in and to the Purchased Assets, they shall forthwith deliver possession thereof to the Purchaser.

12. The Purchaser shall be entitled to enter into and upon, hold and enjoy the Purchased Assets for its own use and benefit without any interference of or by the Debtors, or any person claiming by, through or against the Debtors.

13. Immediately upon closing of the Transaction, holders of Permitted Encumbrances shall have no claim whatsoever against the Receiver.

14. The Receiver is directed to file with the Court a copy of the Receiver's Closing Certificate forthwith after delivery thereof to the Purchaser.

15. Pursuant to clause 7(3)(c) of the *Personal Information Protection and Electronic Documents Act* (Canada) and section 20(e) of the Alberta *Personal Information Protection Act*, the Receiver is authorized and permitted to disclose and transfer to the Purchaser all human resources and payroll information in the Debtors' records pertaining to the Debtors' past and current employees. The Purchaser shall maintain and protect the privacy of such information and shall be entitled to use the personal information provided to it in a manner which is in all material respects identical to the prior use (of such information) to which the Debtors were entitled.

MISCELLANEOUS MATTERS

16. Notwithstanding:

    (a) the pendency of these proceedings and any declaration of insolvency made herein;

    (b) the pendency of any applications for a bankruptcy order now or hereafter issued pursuant to the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c.B-3, as amended (the "BIA"), in respect of the Debtors, and any bankruptcy order issued pursuant to any such applications;

    (c) any assignment in bankruptcy made in respect of the Debtors; and

    (d) the provisions of any federal or provincial statute:

    the vesting of the Purchased Assets in the Purchaser pursuant to this Order shall be binding on any trustee in bankruptcy that may be appointed in respect of the Debtors and shall not be void or voidable by creditors of the Debtors, nor shall it constitute nor be deemed to be a transfer at undervalue, settlement, fraudulent preference, assignment, fraudulent conveyance, or other reviewable transaction under the BIA or any other applicable federal or provincial legislation, nor shall it constitute oppressive or unfairly prejudicial conduct pursuant to any applicable federal or provincial legislation.

17. The Receiver, the Purchaser and any other interested party, shall be at liberty to apply for further advice, assistance and direction as may be necessary in order to give full force and effect to the terms of this Order and to assist and aid the parties in closing the Transaction.

18. This Honourable Court hereby requests the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in any of its provinces or territories or in any foreign jurisdiction, to act in aid of and to be complimentary to this Court in carrying out the terms

of this Order, to give effect to this Order and to assist the Receiver and its agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such order and to provide such assistance to the Receiver, as an officer of the Court, as may be necessary or desirable to give effect to this Order or to assist the Receiver and its agents in carrying out the terms of this Order.

19. Service of this Order shall be deemed good and sufficient by:

    (a) Serving the same on:

        (i) the persons listed on the service list created in these proceedings;

        (ii) any other person served with notice of the application for this Order;

        (iii) any other parties attending or represented at the application for this Order;

        (iv) the Purchaser or the Purchaser's solicitors; and

    (b) Posting a copy of this Order on the Receiver's website for these proceedings (https://documentcentre.ey.com/#/home);

and service on any other person is hereby dispensed with.

20. Service of this Order may be effected by facsimile, electronic mail, personal delivery or courier. Service is deemed to be effected the next business day following transmission or delivery of this Order.

____

Justice of the Court of Queen's Bench of Alberta

Schedule "A"

Form of Receiver's Certificate

COURT FILE NUMBER	1901-12274	Clerk's Stamp
COURT	COURT OF QUEEN'S BENCH OF ALBERTA	
JUDICIAL CENTRE	CALGARY	
APPLICANT	ATB FINANCIAL (FORMERLY ALBERTA TREASURY BRANCHES)	
RESPONDENTS	1963843 ALBERTA LTD., PENHOLD CROSSING PLAZA LTD., ASHWANI AWASTHI, SWARNJIT SINGH KOONER, SUKHBIR NAIN, OM ACAYOT ABHOY, and ANURAG SUMAN	
DOCUMENT	**RECEIVER'S CLOSING CERTIFICATE**	
ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT	Dentons Canada LLP Bankers Court 15th Floor, 850 - 2nd Street S.W. Calgary, Alberta T2P 0R8 Attention: John Regush Ph. (403) 268-7086 Fx. (403) 268-3100 File No.: 131079-102	

RECITALS

A. Pursuant to an Order of the Honourable Justice Jones of the Court of Queen's Bench of Alberta, Judicial District of Calgary (the "Court") dated November 6, 2019, Ernst & Young Inc. was appointed as the receiver (the "Receiver") of the undertakings, property and assets of 1963843 Alberta Ltd. and Penhold Crossing Plaza Ltd. (collectively, the "Debtors").

B. Pursuant to an Order of the Court dated **[Date]** (the "Sale and Vesting Order"), the Court approved the agreement of purchase and sale made as of **[Date] [Date]**, 2021 (the "Sale Agreement") between the Receiver and 1676556 Alberta Ltd. (the "Purchaser") and provided for the vesting in the Purchaser of the Debtors' right, title and interest in and to the Purchased Assets, which vesting is to be effective with respect to the Purchased Assets upon the delivery by the Receiver to the Purchaser of a certificate confirming (i) the payment by the Purchaser of the Purchase Price for the Purchased Assets; (ii) that the conditions to Closing as set out in Article [12] of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser; and (iii) the Transaction has been completed to the satisfaction of the Receiver.

C. Unless otherwise indicated herein, capitalized terms have the meanings set out in the Sale Agreement.

THE RECEIVER CERTIFIES the following:

1. The Purchaser has paid and the Receiver has received the Purchase Price for the Purchased Assets payable on the Closing Date pursuant to the Sale Agreement;

2. The conditions to Closing as set out in Article [12] of the Sale Agreement have been satisfied or waived by the Receiver and the Purchaser;

3. The termination of the Motor Fuel Supply Agreement, as defined in the Sale and Vesting Order, is effective immediately; and

4. The Transaction has been completed to the satisfaction of the Receiver.

5. This Certificate was delivered by the Receiver at **[Time]** on **[Date]**.

Ernst & Young Inc. LIT, in its capacity as Receiver of the undertakings, property and assets of 1963843 Alberta Ltd. and Penhold Crossing Plaza Ltd., and not in its personal capacity.

Per:____________________________

Name:

Title:

Schedule "B"
Purchased Assets

PLAN 1623323
BLOCK 8
LOT 124
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.607 HECTARES (1.5 ACRES) MORE OR LESS

All personal property related to the foregoing.

Schedule "C"
Encumbrances

Registration No.	Date	Type	Grantee
172 085 067	06/04/2017	Mortgage	Alberta Treasury Branches
172 085 068	06/04/2017	Caveat Re: Assignment of Rents and Leases	Alberta Treasury Branches
182 027 417	30/01/2018	Builder's Lien	Regency Innovations Inc.
182 170 912	13/07/2018	Certificate of Lis Pendens Affects: 182 027912	Regency Innovations Inc.

Schedule "D"
Permitted Encumbrances

1. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown, including, without limitation, the reservation of any mines and minerals in the Crown or in any other person and any implied conditions set out in s.61(1) of the *Land Titles Act* (Alberta) as amended, replaced or restated from time to time;

2. Encumbrances given as security to a public utility or any Governmental Authority when required in the ordinary course of business but only insofar as they relate to any obligations or amounts not due as at the Closing Date;

3. All rights reserved to or vested in any Governmental Authority pursuant to Applicable Law to control or regulate the Property in any manner, including any unregistered, undetermined or inchoate liens, levies or claims in favour of the Crown, any province or municipality or any Governmental Authority;

4. Rights of expropriation, access or use or any similar right conferred or reserved by or in any statute of Alberta or Canada;

5. Applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, servicing or industrial agreements, utility agreements, airport zoning regulations, cost sharing reciprocal agreements and building and other zoning restrictions and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of the Property;

6. Any easements, servitudes, rights-of-way, licenses, agreements, restrictions that run with the land and other Encumbrances (including easements, rights-of-way and agreements for railways, sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables) which do not materially impair the use, operation or marketability of the Property (based on the current use of the Property) affected thereby;

7. Encumbrances respecting minor encroachments by the Property over neighbouring lands and/or permitted under agreements with the owners of such other lands and minor encroachments over the Property by improvements of abutting land owners, provided the same do not materially adversely affect the use or marketability of the Property;

8. Any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under contracts of the Vendor or the Corporations so long as the payment or the performance of such other obligation or act is not delinquent and provided that such Encumbrances or privileges do not materially affect the use or the operation of the assets affected thereby;

9. Encumbrances which will be vested out or otherwise discharged at Closing pursuant to the Approval and Vesting Order;

10. Encumbrances permitted or created pursuant to the terms of this Agreement;

11. The following specific Leases;

- Indenture of Lease dated December 5, 2017 between 1963843 Alberta Ltd. and The TDL Group Corp./Groupe TDL Corporation; and
- Lease dated February 8, 2017, between Penhold Crossing Plaza Ltd. and 1963843 Alberta Ltd.

12. The following specific instruments registered against the title to the Property:

Registration No.	**Date**	**Type**	**Grantee**
082 342 760	13/08/2008	Utility Right of Way	The Town of Penhold
082 530 932	05/12/2008	Utility Right of Way	The Town of Penhold
112 309 079	29/09/2011	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
122 261 914	13/08/2012	Utility Right of Way	The Town of Penhold
132 202 952	05/07/2013	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
142 174 907	10/06/2014	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
142 189 071	19/06/2014	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
162 255 567	14/09/2016	Utility Right of Way	The Town of Penhold
162 255 568	14/09/2016	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
162 255 569	14/09/2016	Easement	
162 355 370	21/12/2016	Restrictive Covenant	

SCHEDULE 1.1(e)

Form of Assignment and Assumption Agreement

(attached)

ASSIGNMENT AND ASSUMPTION AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT is dated as of the **[Date]**, 2021,

BETWEEN:

1963843 ALBERTA LTD. & PENHOLD CROSSING PLAZA LTD. by and through its Court-appointed receiver and manager, Ernst & Young Inc., not acting in its personal or corporate capacity

- and -

1676556 ALBERTA LTD. (the "**Purchaser**")

WHEREAS:

A. Pursuant to that certain agreement of purchase and sale dated as of **[Date]**, 2021 between the Vendor and the Purchaser (the "**Purchase Agreement**"), the Vendor has agreed to sell to the Purchaser the Property, which Property includes the Assumed Contracts (as described in Schedule "A" hereto); and

B. The Vendor wishes to assign to the Purchaser all of Vendor's Interest in, to and under the Assumed Contracts, and the Purchaser wishes to assume, perform and discharge of all of the Assumed Liabilities under or in respect of the Assumed Contracts;

NOW THEREFORE in consideration of good and valuable consideration (the receipt and sufficiency of which are hereby acknowledged by the Vendor), the Parties agree as follows:

1. All capitalized terms used herein which have not been defined herein shall have the same meanings attributed thereto in the Purchase Agreement unless the context requires otherwise.

2. The Vendor hereby absolutely assigns and transfers to the Purchaser, effective as of date hereof, all of the Vendor's Interest in and to, and all benefits of the Corporations under, each of the Assumed Contracts.

3. The Purchaser hereby accepts the foregoing assignments and covenants with the Vendor that it will, from and after the date hereof, assume, discharge, perform and fulfill all the obligations and liabilities of the Vendor under each of the Assumed Contracts arising from and after the date hereof, and the Purchaser hereby agrees to save the Vendor harmless from any loss, liability, claim, damage or expense suffered or incurred by the Vendor as a result of any failure by the Purchaser to discharge, perform or fulfill such assumed obligations and liabilities as and from the date hereof.

4. Nothing in this Assignment and Assumption Agreement shall be construed as an attempt to assign to the Purchaser any Assumed Contract which, as a matter of law or by its terms, is not assignable in whole or in part without the consent of the other Person (or Persons) that is a party thereto and in respect of which no such consent has been received or the requirement for such consent has not been terminated, disclaimed, waived or otherwise disposed of by the Court Approval.

5. The Purchaser shall have no recourse against the Vendor (in its capacity as Court appointed receiver and manager) and Ernst & Young Inc. (in its personal or corporate capacity) under any and all circumstances.

6. This Assignment and Assumption Agreement is made pursuant to the Purchase Agreement and is not in derogation of any of the rights of the Vendor or the Purchaser under the Purchase Agreement. The terms of the Purchase Agreement shall not merge in this Assignment and Assumption Agreement. In the event of any conflict or inconsistency between this Assignment and Assumption Agreement and the Purchase Agreement, the Purchase Agreement shall govern and prevail.

7. Each of the Parties hereto from and after the date hereof shall, from time to time, and at the reasonable request and expense of the Party requesting the same, do all such further acts and things and execute and deliver such further instruments, documents, matters, papers and assurances as may be reasonably requested to complete the matters contemplated herein and for more effectually carrying out the true intent and meaning of this Assignment and Assumption Agreement.

8. This Assignment and Assumption Agreement shall enure to the benefit of and be binding upon the Parties and their respective successors and permitted assigns and shall not be assignable by any Party without the prior written consent of the other Party, which consent will not be unreasonably withheld, delayed or conditioned.

9. This Assignment and Assumption Agreement shall be governed by and construed in accordance with the laws of the Province of Alberta and the federal laws of Canada applicable therein.

10. This Assignment and Assumption Agreement may be executed in any number of counterparts (including by electronic means), each of which shall be deemed to be an original and all of which shall constitute one and the same agreement. Transmission by electronic means of an executed counterpart of this Assignment and Assumption Agreement shall be deemed to constitute due and sufficient delivery of such counterpart.

[THE BALANCE OF THIS PAGE INTENTIONALLY BLANK]

IN WITNESS WHEREOF this Assignment and Assumption Agreement has been properly executed by the Parties as of the date first above written.

1963843 ALBERTA LTD. & PENHOLD CROSSING PLAZA LTD., by and through its Court-appointed receiver and manager, Ernst & Young Inc., not acting in its personal or corporate capacity

Per: ______________________________

Name:

Title:

1676556 ALBERTA LTD.

Per: ______________________________

Name:

Title:

SCHEDULE "A"

Assumed Contracts

Each of the following agreements, including all amendments, change orders and any other modifications thereto:

Contract	Counterparty/ies

SCHEDULE 1.1(f)

Assumed Contracts

Executed Agreements

1. Indenture of Lease dated December 5, 2017 between 1963843 Alberta Ltd. and The TDL Group Corp./Groupe TDL Corporation.
2. Lease dated February 8, 2017, between Penhold Crossing Plaza Ltd. and 1963843 Alberta Ltd.
3. Equipment Lease Agreement dated November 20, 2017 between 7964927 Canada Inc. DBA Lease Plus Financial and 1963843 Alberta Ltd. DBA Penhold Esso AND A&P Building Maintenance Services Ltd. AND Awasthl, Ashwanl AND Liquor Unlimited Inc. DBA Liquor 7.

Agreements Registered against Title

1. None.

SCHEDULE 1.1(ff)

Lands

Municipal Address: 2 Hawkridge Blvd, Penhold, Alberta

Legal Description:

PLAN 1623323
BLOCK 8
LOT 124
EXCEPTING THEREOUT ALL MINES AND MINERALS
AREA: 0.607 HECTARES (1.5 ACRES) MORE OR LESS

SCHEDULE 1.1(nn)

Permitted Encumbrances

1. The reservations, limitations, exceptions, provisos and conditions, if any, expressed in any original grants from the Crown, including, without limitation, the reservation of any mines and minerals in the Crown or in any other person and any implied conditions set out in s.61(1) of the *Land Titles Act* (Alberta) as amended, replaced or restated from time to time;

2. Encumbrances given as security to a public utility or any Governmental Authority when required in the ordinary course of business but only insofar as they relate to any obligations or amounts not due as at the Closing Date;

3. All rights reserved to or vested in any Governmental Authority pursuant to Applicable Law to control or regulate the Property in any manner, including any unregistered, undetermined or inchoate liens, levies or claims in favour of the Crown, any province or municipality or any Governmental Authority;

4. Rights of expropriation, access or use or any similar right conferred or reserved by or in any statute of Alberta or Canada;

5. Applicable municipal by-laws, development agreements, subdivision agreements, site plan agreements, servicing or industrial agreements, utility agreements, airport zoning regulations, cost sharing reciprocal agreements and building and other zoning restrictions and other similar agreements with Governmental Authorities or private or public utilities affecting the development or use of the Property;

6. Any easements, servitudes, rights-of-way, licenses, agreements, restrictions that run with the land and other Encumbrances (including easements, rights-of-way and agreements for railways, sewers, drains, gas and water mains or electric light and power or telephone, telecommunications or cable conduits, poles, wires and cables) which do not materially impair the use, operation or marketability of the Property (based on the current use of the Property) affected thereby;

7. Encumbrances respecting minor encroachments by the Property over neighbouring lands and/or permitted under agreements with the owners of such other lands and minor encroachments over the Property by improvements of abutting land owners, provided the same do not materially adversely affect the use or marketability of the Property;

8. Any privilege in favour of any lessor, licensor or permitter for rent to become due or for other obligations or acts, the performance of which is required under contracts of the Vendor or the Corporations so long as the payment or the performance of such other obligation or act is not delinquent and provided that such Encumbrances or privileges do not materially affect the use or the operation of the assets affected thereby;

9. Encumbrances which will be vested out or otherwise discharged at Closing pursuant to the Approval and Vesting Order;

10. Encumbrances permitted or created pursuant to the terms of this Agreement;

11. The following specific Leases;

- Lease dated February 8, 2017, between Penhold Crossing Plaza Ltd. and 1963843 Alberta Ltd;
- Indenture of Lease dated December 5, 2017 between 1963843 Alberta Ltd. and The TDL Group Corp./Groupe TDL Corporation; and

12. The following specific instruments registered against the title to the Property:

Registration No.	Date	Type	Grantee
082 342 760	13/08/2008	Utility Right of Way	The Town of Penhold
082 530 932	05/12/2008	Utility Right of Way	The Town of Penhold
112 309 079	29/09/2011	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
122 261 914	13/08/2012	Utility Right of Way	The Town of Penhold
132 202 952	05/07/2013	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
142 174 907	10/06/2014	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
142 189 071	19/06/2014	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
162 255 567	14/09/2016	Utility Right of Way	The Town of Penhold
162 255 568	14/09/2016	Caveat Re: Development Agreement Pursuant to Municipal Government Act	The Town of Penhold
162 255 569	14/09/2016	Easement	
162 355 370	21/12/2016	Restrictive Covenant	